TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 171.

HIRAM DEWING, EMERY THAYER, ET AL., APPELLANTS,

vs.

GREGORY A. PERDICARIES, CHARLOTTE A. BROWN, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA.

FILED OCTOBER 8, 1875.

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1, 2, 3 THE UNITED STATES OF AMERICA,
District of South Carolina, to wit:

At a circuit court of the United States for the fourth circuit, in and for the district of South Carolina, begun and holden at Charleston, in the district aforesaid, on the fourth Monday in November, 1866, before the honorable Hugh L. Bond and the honorable George S. Bryan, judges of the said United States for the district of South Carolina, holding said circuit court according to the form of the act of Congress in such case made and provided, the following proceedings were had:

GREGORY A. PERDICARIES, A CITIZEN OF THE State of New Jersey,
vs.
CHARLESTON GAS LIGHT COMPANY AND THOMAS Barrett, E. M. Beach, et al., citizens of the State of So. C'a.

Be it remembered that heretofore, to wit, the fourth Monday in November, in the year of our Lord one thousand eight hundred
4 and sixty-six, the said Gregory A. Perdicaries, a citizen of the State of New Jersey, impleaded the said Charleston Gas Light Company, Thomas Barrett, Bank of Newberry, E. M. Beach, Virginia J. Cohen, administratrix of the estate of J. S. Cohen; W'm Carrington, O. J. Chafee, Jos. C. Fayo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. Mordecia, B. O'Neil, People's Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles T. Huntoon, Henry D. Burkett, George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, and William L. Trenholm in a bill of complaint for injunction and relief, as follows:

Bill.

THE UNITED STATES OF AMERICA:

Fifth circuit, district of South Carolina. In equity.

To the honorable the judges of the circuit court of the United States:

Humbly complaining sheweth unto your honors, your orator, Gregory A. Perdicaries, a citizen of the State of New Jersey, who sues in
5 behalf of himself and such other stockholders of the Charleston Gas Light Company as may come in as plaintiffs and contribute to the expences of this suit, that heretofore, to wit, on the 29th March, eighteen hundred and sixty-two, the said Gregory was the owner of thirteen hundred and fifty-four shares in the capital stock of the said Charleston Gas Light Company, which said company your orator avers has been duly incorporated by the State of South Carolina, and was then and is now located and is conducting its business at Charleston, in the said State.

And your orator further sheweth that the said shares were then and there worth at or near the rate of twenty-five *fire* dollars per share, and, being the sole property of your orator, were seized by certain persons pretending authority under a certain court styled the district court of the Confederate States, in the district of South Carolina, claiming to exercise jurisdiction in the State of South Carolina; and afterwards, by order of the said court, were put up and sold at public auction.

And your orator further sheweth that by the same order of the said court certain other shares in the capital stock of the said company were also ordered to be sold; and the president of the said company was ordered by the said court to issue new certificates to all purchasers of the said stock.

6

That afterwards, by certain proceedings in the said *said* court, certain other shares in the said company were seized and ordered by the said court to be sold, and certificates for the same were ordered to be delivered by the president of the said company to the purchasers; that the entire number of all the shares so seized and ordered to be sold, were three thousand seven hundred & sixty-six, each having a par value of twenty-five dollars, and standing on the books of the company in the following names and proportions, to wit:

Martha Stures, of Phil'a, Penn'a, No. shares.....	81		
C. B. Dungan, Phil'a, Penn., No. shares.....	5		
		86	shares
W'm Hopper, of do. do. " "	31		
John L. Murta " do. do. " "	24		
		55	"
Theophilus P. Code " do. do. " "	125		
W. S. Faituite, Newark, New Jersey, "	132		
		257	"
Fred'k Brown, Phil'a, Penn., "	500		
E. H. Dungan do. do. "	9		
		509	"
Hugh Elliott, trust., do. do. "	62		
B. Kreischer & Nephin, New York, N. Y., "	35		
		97	"
James Hoy, Trenton, N. Jersey, "	1,408	1,408	"
G. A. Perdicaries, do. do. "	1,354	1,354	"
		3,766	shares

And your orator further sheweth that one John W. Caldwell, claiming authority as one of the receivers of the said court, did actually offer the said shares for sale at public auction, and knocked down the same to various persons as purchasers thereof; and that thereupon John Schnielie, esq., then acting as president of the said company, did actually issue and deliver to the persons hereinafter named certificates for the amount of the several shares in the stock of the said company so knocked down to them at the said sale, made as aforesaid, under the authority of the said court.

7

That the following statement sets forth, as nearly as your orator can ascertain it, the amounts of the shares and the persons to whom the said certificates of stock were issued, to wit:

Thomas Barrett.....	200	shares.	Bank of Newberry..... 1,408
Shares. Isaac S. Cohen.....	100	"	Otis T. Chafeee..... 400
" Henry Daly	100	"	Jno. Fraser & Co..... 100
" Artemus Gould..	200	"	Isaac Harris..... 200
" A. H. Hayden.....	100	"	James Hope..... 200
" B. D. Lazarus.....	122	"	M. Mordecai..... 86
" B. O'Neil.....	50	"	Ja's H. Taylor..... 50
" W. H. Werron.....	100	"	Cha's Weissenger..... 100
" Wilkinson & Fargo.	200	"	M. B. Wilbur..... 50
	1,172		2,594
			1,172
			3,766 shares.

8 And your orator further sheweth that all the said persons named in the said certificates are citizens of the State of South Carolina, or of some State other than the State of New Jersey, and that they all claim now to be shareholders of the stock of the said company with the same rights as other stockholders, saving and excepting that several of them, to wit, Isaac Harris, W. H. Wesson, M. B. Wilbur, Cha's Weissenger, Henry Daly, Ja's H. Taylor, and Wilkinson & Fargo, have transferred their interest in their respective shares to other persons, to wit, E. M. Beach, W'm Carrington, Jos. C. Fargo, M. Wilkinson, G. T. Jackson, People's Bank, H. H. Williams, and Dewing, Thayer & Co., to whom the Bank of Newberry had transferred 400 of their shares.

And the president of the said company, mistaking his duty in the premises, has actually issued new certificates of stock to the said persons, as follows: E. M. Beach, W'm Carrington, G. T. Jackson, People's Bank, H. H. Williams, Jos. C. Fargo, M. Wilkinson, and Dewing, Thayer & Co. And your orator avers that the said persons to whom the said new certificates were issued are all citizens of South Carolina or of some State other than the State New Jersey, and that they
9 claim to be shareholders of the stock of the said company, with the same rights as other stockholders. And your orator charges that each one of them, at and before the date at which he made his purchase and received his certificates of stock, had full notice of the defects in the title of the respective persons from whom they purchased.

And your orator further sheweth that since the re-establishment of the authority of the Government of the United States in the State of South Carolina, to wit, 9th March, 1866, the said Charleston Gas Light Company has recognized the validity of the claim of your orator and the other stockholders (whose shares had been seized and sold as aforesaid) to be reinstated to their rights as members and shareholders in the said corporation, and have accordingly duly entered their names as such upon its books.

But your orator is informed and believes, that although the company have erased the names of the said perchasers from the list of stockholders, and assert that they are no longer entitled to the privileges of stockholders, yet the said parties do, each of them, assert and claim that the said action of the company is invalid, and that they are
10 entitled to all the rights of stockholders, with full power to come in with the original stockholders and direct the affairs of the corporation, to receive dividends, and make transfers of their stock.

And your orator sheweth that the effect of such claim is to surcharge the capital stock to the extent of three thousand seven hundred & sixty-six shares, which, at par value, creates a charge upon the corporation of ninety-four thousand one hundred & fifty dollars, and thereby abates from the shares owned by your orator alone upwards of three thousand ($3,000) dollars in capital, and a proportional share of all future dividends.

Your orator further sheweth that by the charter of the said company it is provided that the capital stock shall only be increased whenever a majority of the stockholders present at a general meeting, or the board of directors by their authority, shall determine; and it is expressly provided that such additional stock shall be divided rateably among the stockholders in proportion to their shares at the time of such increase.

And your orator expressly charges that the issue of new certifi-
11 cates for the said three thousand seven hundred & sixty-six shares was, in fact, an increase of the capital of the said com-

pany. And he avers that such increase was never authorized by the stockholders at any general meeting, or by the board of directors under their authority, and at no time was such additional stock divided among the stockholders, or offered to be divided, as required by the said charter.

And your orator sheweth that the above-named J. S. Cohen hath departed this life, and that one Virginia J. Cohen hath taken out letters of administration upon his estate.

And your orator hath applied in a friendly manner to the said gas-light company to disregard the claims of the said pretended stockholders, to which they would willingly accede; but they affirm that these pretended stockholders have in their possession the certificates of stock issued to them as aforesaid, and claim that they bind the company to admit the holders thereof. Whereas your orator charges that the said certificates were improvidently and illegally issued, and have no binding force or validity.

Your orator hath also applied to the said several purchasers
12 and holders of new certificates, to deliver up the same to be cancelled, and to abandon all claim to be considered stockholders of the said company. But now, so it is, may it please your honors, that the Charleston Gas Light Company, and the said Thomas Barrett, Bank of Newberry, South Carolina; E. M. Beach, Virginia J. Cohen, administratrix of J. S. Cohen; W'm Carrington, O. J. Chafee, Jos. C. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. Mordecai, B. O'Neill, The Peoples' Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles Huntoon, and Henry D. Benkett, who have survived one Leonard C. Dewing, in whose life-time these were partners in trade, as Dewing, Thayer & Co., and George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, & William L. Trenholm, co-partners as John Fraser & Company, combining and confederating with divers persons to your orator unknown, but who when discovered he prays may be made parties hereto, wholly refuses so to do; and the said last-mentioned persons threaten to bring suits against the said company upon their scrip, to compel the said company to recognize them
13 as shareholders; and they claim the right to make transfers and receive dividends on the stock; some of them pretending to be bona fide purchasers, without notice. Whereas your orator charges that all such claims are unfounded, and that each of the said parties had full notice that the shares purchased by him had been seized and sold without due legal authority under the proceedings hereinbefore referred to.

All which actings and doings are contrary to equity, and tend manifestly to the injury of your orator.

To the end, therefore, that the said Charleston Gas Light Company and the said Thomas Barrett, Bank of Newberry, South Carolina; E. M. Beach, Virginia J. Cohen, administratrix of the estate of J. S. Cohen; W'm Carrington, O. J. Chafee, Jos. C. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. Mordecai, B. O'Neil, The Peoples' Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles S. Huntoon, and Henry D. Benkett, and George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, and W'm L. Trenholm, may
14 answer the premises; that the said sales of shares in the said company, made under the pretended authority of the Confederate States, may be vacated and set aside, and that the certificates of stock issued to the purchasers at such sales, or their assignees, may be de-

cleared invalid and delivered up to be cancelled; that an injunction may be issued to restrain the said defendants from selling any of the said shares, and from bringing suits for transfer or payment of dividends; and also to restrain the said company from allowing any such transfer or issuing any new certificates for the same, or from paying any dividends upon such shares; and that such other and further relief may be granted as the equity of the case may require or to your honors shall seem meet, may it please your honors to grant unto your orator not only a writ of injunction to be directed to the said Charleston Gas Light Company and the said Thomas Barrett, Bank of Newberry, South Carolina; E. M. Beach, Virginia J. Cohen, administratrix of the estate of J. S. Cohen; W'm Carrington, O. J. Chafee, Jos. C. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. Mordecai, B. O'Neil, Peoples' Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles T. Huntoon, Henry D. Benkett, George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, and William L. Trenholm, and their agents, restraining the said defendants claiming to be stockholders from selling any of the said shares and from bringing suits for transfers or payment of dividends, and restraining the said Charleston Gas Light Company from allowing any such transfers, or issuing any new certificates for the same, or from paying any dividends upon such shares until the further order of this court; but also a writ or writs of subpœna to be directed to the said defendants, commanding them on a certain day and under a certain penalty therein to be inserted, to be and appear before this honorable court, then and there to answer the premises, and to stand to and abide by such order and decree as to this honorable court shall seem meet and agreeable to equity. And, as in duty bound, your orator will ever pray, &c.

MEMMINGER & JERVEY,
Compla'ts' Sol'rs.
GREGORY A. PERDICARIES.

STATE OF NEW JERSEY:

Personally appeared Gregory A. Perdicaries, complainant in foregoing bill named, who, being duly sworn, deposeth that the matters and things therein set forth, so far as they depend on his own knowledge, are true, and so far as they are derived from the information of others he believes them to be true.

Sworn to before me Sept. 18th, 1866.

RALP. H. SHREVE,
United States Commissioner.

Subpœna.

UNITED STATES OF AMERICA:

Fifth circuit, State of South Carolina.

The President of the United States of America to the Charleston Gas Light Company, Tho's Barrett, Bank of Newberry, So. C'a; E. M. Beach, Virginia J. Cohen, administratrix of the estate of J. S. Cohen; W'm Carrington, Jos. C. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. Mordecai, B. O'Neil, People's Bank of So. C'a, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles H. Huntoon, Henry D. Ben-

kett, George A. Trenholm, Theodore D. Wagner, C. K. Prioleau, James T. Welsman, and William L. Trenholm, citizens of the State of South Carolina:

You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the first Monday of November next, twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of Gregory A. Perdicaries, a citizen of the State of New Jersey.

And also that you do, on the rules day next immediately after the day appointed and expressed, file or cause to be filed in the registry of said court your plea, answer, or demurrer to the said bill of complaint.

Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

18 Witness the honorable Salmon P. Chase, Chief-Justice of the United States of America, at Greenville, in South Carolina, district aforesaid, the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-six, and in the 91st year of the sovereignty and Independence of the United States of America.

[SEAL.] MEMMINGER & JERVEY,
Complainant's Solicitors.

[50 cents internal-revenue stamp, cancelled.]

DAN'L HORLBECK,
Clk Cir. Ct, S. C. D.

Services of subpœna.

I accept service for Charleston Gas Light Co.
25 Sept., '66.

H. E. YOUNG, *Sol.*

UNITED STATES MARSHAL'S OFFICE,
South Carolina District.

I hereby depute V. J. Tobias to execute the within process.
Charleston, 25 Sept'r, 1866.

J. P. M. EPPING,
19 *U. S. Marshal.*

UNITED STATES MARSHAL'S OFFICE,
South Carolina District.

I hereby depute W. H. Houseal to execute the within process by service on the Bank of Newberry, S. C., through its president. Sept. 29, '66.

J. P. M. EPPING,
U. S. Marshal.

United States of America, circuit court. In equity.

G. A. PERDICARIES
vs.
CHARLESTON GAS LIGHT CO. ET AL. } Sub. ad. resp.

Original No. 1.
Copies for—

2. Thomas Barrett.
3. Bank of Newberry, So. C'a.
4. Virginia J. Cohen, adm'x J. S. Cohen, D. P. by V. J. Tobias, Sept. 26, '66.
5. W'm Carrington, L. with partner, W. Thomas, do. " " "
6. B. D. Lazarus, D. P. do. " " "
7. M. C. Mordecai, L. with partner, J. L. Tobias, do. " 26, "
8. O. J. Chafee, L. with son, J. W. Chafee, do. " " "
9. Jos. C. Fargo.
10. Artemus Gould.
11. James Hope.
12. A. H. Hayden, L. with A. J. Mines, ag't, do. " 26, "
13. G. T. Jackson.
14. B. O'Neil, L. with B. Boyd, book-keeper, by V. J. Tobias, Sept. 26, '66.
15. People's Bank of So. C'a, L. with D. L. McKay, pres't. do. " 27, "
16. H. H. Williams, D. P. do. " 26, "
17. M. Wilkinson.
18. Hiram Dewing,
19. Emery Thayer,
20. Charles H. Huntoon,
21. Henry D. Burkett,
} Copies left with W.B. Clarke, agent for all the parties. do. " 26, "
22. G. A. Trenholm, L. with partner, T. D. Wagner, do " 26, "
23. Theo. D. Wagner, D. P. do. " " "
24 James T. Welsman, D. P. do. " " "
25. C. K. Prioleau, L. with partner, T. D. Wagner do. " " "
26. W'm L. Trenholm, L. " do. do. do. " " "

I hereby certify that the within copies of the writ in the said case were served by me as stated herein.
Charleston, Sept. 29, 1866.

V. J. TOBIAS.

I executed the within process by serving a copy thereof on the Bank of Newberry, S. C., through Benjamin D. Boyd, its president.
Newberry, October 4th, 1866.

W'M W. HOUSEAL,
Dep'ty Marshal.

Service proved before me 5th October, 1866.

E. P. LAKE, *C. C. P.*

21 And on the 25th day of April, 1867, came into court G. A. Perdicaries, the complainant, by his solicitors, Memminger & Jervey, and obtained the following order pro confesso, which order is in the words and tener following:

Order pro confesso.

It appearing to my satisfaction that the Charleston Gas Light Company, one of the defendants, who has been served with subpœna, have failed in due time to appear & answer or demur to this bill, it is ordered that the same be taken pro confesso against them.
April 25th, '67.

And on the 14th day of March, 1870, came into court G. A. Perdicares, the complainant, by his solicitors, Memminger & Jervey, and obtained the following order pro confesso, which order is in the words and tener following:

Order pro confesso.

The defendants, E. M. Beach, The Bank of Newberry, So. C'a; V. J. Cohen, adm'x; D. Lazarus, M. C. Mordecai, B. O'Neil, A. H. Hay-
22 den, having failed to answer after demurrers overruled,

Ordered, That the bill be taken pro confesso as to them.
Under 18 rule, p. 90.
14 March, 1870.

DAN'L HORLBECK,
C. C. C. U. S. for S. C.

And on the 25th day of September, 1866, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger & Jervey, and filed the following notice to defendants, which notice is in the words and tener following:

Notice to defendants.

Take notice that on Monday next the complainant will move his honor to permit the writ of injunction prayed for within.
25 Sept., 1866.

MEMMINGER & JERVEY,
Compl'ts Sol'c'rs.

23 And on the 1st day of October, 1866, came into court O. J. Chafee & A. H. Hayden, defendants, by their solicitors, McCrady & Son, and obtained the following order for security for costs; which order is in the words and tener following:

Order for security for costs.

G. A. PERDICARIES
vs.
THE CHARLESTON GAS LIGHT CO.

On motion of Mess'rs McCrady and Son, solicitors for Otis J. Chafee, A. H. Hayden, defendants in this case, it is ordered that the plaintiff give security for costs in this case, on or before the 11th day of October instant.
1 Oct., 1866.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. C'a.

And on the 1st day of October, 1866, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger & Jervey, and obtained the following order of injunction, which order is in the words and tener following:

Order of injunction.

24 GREGORY A. PERDICARIES
vs.
CHARLESTON GAS LIGHT COMPANY, THOMAS Barrett, and others.

On motion Memminger and Jervey, complainant's solicitors, it is ordered that the defendants upon whom process has been served in this case be severally restrained by the injunction of this court from selling or transferring all or any part of the stock mentioned in the bill, and from bringing suit or suits against the Charleston Gas Light Company for the transfer of such stock, or for the payment of dividends thereon;

and also that the said Charleston Gas Light Company be also restrained by the injunction of this court from permitting such transfers to be made, and from issuing any new certificates for such stock, & from paying any dividends upon such share or shares, until the defendants shall have appeared and answered the plaintiff's bill and the further order of this court.

1 Oct., 1866.

GEORGE S. BRYAN,
U. S. Judge, Dist. C't So. C'a.

25 And on the 1st day of October, 1866, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger & Jervey, and obtained the following writ of injunction; which writ is in the words and tener following:

Writ of injunction.

UNITED STATES OF AMERICA,
District of So. C'a:

Special circuit court at Charleston, 1 Oct., 1866.

G. A. PERDICARIES, A CITIZEN OF NEW Jersey,
vs.
THE GAS LIGHT CO. ET AL., CITIZENS OF State So. C'a.
} Bill for relief & injunction.

To the Charleston Gas Light Company, Virginia J. Cohen, adm'x of J. S. Cohen; W. Carrington, B. D. Lazarus, M. C. Mordecai, O. J. Chafee, A. H. Hayden, B. O'Neil, The People's B'k of So. C'a, H. H. Williams, Hiram Dewing, Emery Thayer, Ch's H. Hunton, Henry D. Burkett, G. A. Trenholm, Theo. D. Wagner, Jos. T. Welsman, C. K.
26 Prioleau, W'm L. Trenholm, et al.:

Whereas on the 1st Oct. inst., at a special circuit court of U. S. for So. C'a, holden at Charleston, the following order was made by the judge:

GREGORY A. PERDICARIES
vs.
CHARLESTON GAS LIGHT COMPANY, THOMAS Barrett, and others.

On motion Memminger and Jervey, complainant's solicitors, it is ordered that the defendants upon whom process has been served in this case be severally restrained by the injunction of this court from selling or transferring all or any part of the stock mentioned in the bill, and from bringing suit or suits against the Charleston Gas Light Company for the transfer of such stock, or for the payment of dividends thereon; and also that the said Charleston Gas Light Company be also restrained *restrained* by the injunc. of this court from permitting such transfers to be made, and from issuing any new certificates for such stock, & from paying any dividends upon such share or shares, until the
27 defendants shall have appeared and answered the plaintiff's bill, and the further order of this court.

GEO. S. BRYAN,
U. S. Judge, Dist. C't So. C'a.

1 Oct., 1866.

These are, therefore, to require you to obey said order on pain of the penalties consequent thereon.

By order of the court this 1 Oct., A. D. 1866.

DAN'L HORLBECK,
C. C. C. U. S. for So. C'a.

Services.

U. S. MARSHAL'S OFFICE,
South Carolina District.

I hereby depute V. J. Tobias to execute the within process.
Oct. 5th, 1866.

J. P. M. EPPING,
U. S. Marshal.

The within process executed by the following services, October 5th, 1866, viz:

Copy for T. D Wagner,	Delivered P.
" " G. A. Trenholm,	Left with partner, T. D. Wagner.
" " Ja's T. Welsman,	
" " C. K. Prioleau,	
" " W'm L. Trenholm,	
" " People's Bank of S.C.,	Left with D. L. McKay, pres'd't.
28 Copy for M. C. Mordecai,	Left with partner, J. L. Tobias.
" " B. O'Neil,	Delivered P.
" " Charleston Gas Light Co.,	Left with W. J. Heriot, secr'y, in absence of Pres'd't Thurston.
" " H. H. Williams,	Delivered P.
" " B. D. Lazarus,	do. P.
" " A. H. Hayden,	Left with clerk, M'r McDonall.
" " W'm Carrington,	Left with partner, W'm Thomas.
" " O. J. Chafee,	Left with son, Nath'l Chafee.
" " Hiram Dewing,	Left with partner, J. A. Van Noy.
" " Emery Thayer,	
" " Cha's H. Huntoon,	
" " Henry D. Burkett,	
" " M'r's Virginia Cohen, adm'x Is'c S. Cohen.	Delivered to son, Oct. 8, 1866.

V. J. TOBIAS.

And on the 10th day of October, 1866, came into court W. J. Heriot, secretary of the Charleston Gas Light Company, and filed the following resolution of the Charleston Gas Light Company, which resolution is in the words and tenor following:

Resolution.

OFFICE CHARLESTON GAS LIGHT CO.,
Charleston, October 10th, 1866.

29 Resolved, That the president is hereby instructed to assume in the name of the company the security required from the plaintiff for costs in the case of Perdicaries vs. Charleston Gas Light Company et al., in the district court of the United States, or to make any other arrangement on behalf of the company which will effect the object had in view.

I certify that this is a true copy from the minutes of the board of directors held this day.

W. J. HERIOT, *Secr'y.*

And on the 10th day of October, 1866, came into court Robert Thurston, president of the Charleston Gas Light Company, and filed the following acknowledgement, which acknowledgement is in the words and tener following:

Acknowledgement.

We, the Charleston Gas Light Company, do hereby acknowledge ourselves liable for the costs of this case, and consent that if the
30 plaintiff fail to recover the defendant may have execution for their costs against us.

Given under our hands & seal of corporation this 10 Oct., 1866.

THE CHARLESTON GAS LIGHT CO., [L. S.]
Per ROBERT THURSTON, *Pres't.*

And on the 1st day of April, 1867, came into court the defendants, the Bank of Newberry, O. J. Chafee, and A. H. Hayden, by their solicitors, McCrady & Son, and filed the following demurrer, which demurrer is in the words and tener following:

Demurrer.

THE UNITED STATES OF AMERICA:

Fifth circuit, district of South Carolina. In equity.

The demurrer of the Bank of Newberry, Charles J. Chafee, and A. H. Hayden, three of the defendants, citizens of the State of South Carolina, to the bill of complaint of Gregory Perdicaries, a citizen of New Jersey, suing for himself and all other stockholders of the Charleston Gas-Light Company:

31 This defendant, by protestation, not confessing all or any of the matters and things in the said complainant's bill contained to be true in such manner and form as the same are therein and thereby set forth, doth demurr thereto, and for cause of demurrer saith that the said bill doth not contain sufficient matter of equity whereon this honorable court can ground any decree in favor of the complainant, or give the said complainant any relief against these defendants, and therefore, and for other defects and divers other causes of demurrer appearing in the said complainant's said bill, these defendants do demur thereto, and humbly demand the judgment of this honorable court whether they shall be compelled to make any answer to the said bill, and prays to be dismissed with their reasonable costs in this behalf most wrongfully sustained.

McCRADY & SON,
Sol'rs for Def't.

We hereby certify that, in our opinion, the above demurrer in this case is well-founded in point of law.

EDWARD McCRADY.

32 Personally appeared before me, Augustus H. Hayden, the defendant above named, who, being duly sworn, saith the demurrer above is not interpos. for the purpose of delay.

A. H. HAYDEN.

Sworn to before me this first day of April, 1867.

JNO. E. RIVERS.
Magistrate.

And on the 16th day of April, 1867, came into court Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, and William A. Carrington, by their solicitor, James B. Campbell, and filed the following general demurrer, which demurrer is in the words and tener following:

General demurrer.

UNITED STATES OF AMERICA:

Fourth circuit, district of South Carolina. In equity.

The demurrer of Hiram Dewing, Emery Thayer, Cha's S. Huntoon, Henry D. Burkett, and William Carrington, five of the defendants to the bill of complaint of Gregory A. Perdicaries, suing for himself
33 and all other stockholders of the Charleston Gas Light Company:

These defendants, by protestation, not confessing all or any of the matters and things in the said complainant's bill contained to be true in such manner and form as the same are therein and thereby set forth, do demur thereto, and for cause of demur'er say that the said bill doth not contain sufficient matter of equity whereon this honorable court can ground any decree in favor of the complainant, or give the said complainant any relief against these defendants, and therefore, and for other defects and divers other causes of demurrer appearing in the said complainant's said bill, these defendants do demur thereto, and humbly demand the judgment of this honorable court whether they shall be compelled to make any answer to the said bill, and pray to be dismissed with their reasonable costs in this behalf most wrongfully sustained.

I hereby certify that the foregoing demurrer is, in my opinion, well-founded in point of law.

34 Personally appeared before me the defendants Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, and William A. Carrington, who, being duly sworn, say that the foregoing demur'er is not interposed by them for delay.

HIRAM DEWING.
HENRY D. BURKETT.
WILLIAM A. CARRINGTON.

Subscribed & sworn to before me this eleventh day of April, A. D. 1867.

A. E. COHEN,
Notary Public.

And on the 16th day of April, 1867, came into court the People's Bank, one of the defendants, by its solicitors, Simonton & Barker, and filed the following demurrer, which demurrer is in the words and tener following:

Demurrer.

UNITED STATES OF AMERICA:

Fourth circuit, South Carolina idstrict. In equity.

The demurrer of "The People's Bank of South Carolina" to th

35 bill of complaint of Gregory A. Perdicaries, suing for himself and all other stockholders of the Charleston Gas Light Company.

This defendant, by protestation, not confessing any or all of the matters and things in said complainant's bill contained to be true in such manner and form as the same are therein or thereby set forth, demurs thereto, and for cause of demurrer saith that said bill doth not contain sufficient matter of equity whereon this honorable court can ground any decree in favour of complainant, or gives said complainant any relief against these defendants, and therefore, and for other defects and divers other causes of demurrer appearing in said bill, this defendant doth demur thereto, and humbly demands the judgment of this honorable court whether it shall be compelled to make any answer to said bill, and prays to be dismissed with its reasonable costs in this behalf most wrongfully sustained.

SIMONTON & BARKER.

36 I hereby certify that the foregoing is in my opinion well-founded in point of law.

Personally appeared before me Donald J. McKay, president of the People's Bank of South Carolina, who, being duly sworn, says that the foregoing demurrer is not interposed by this defendant for delay.

Subscribed and sworn to before me.

37 The demurrers were argued before the circuit court, Chase, Chief-Justice, and Bryan, judge, presiding, at the April term, 1869, in Charleston, and on 6th June, 1869, the Chief-Justice delivered the following decision, which decision is in the words and tenor following:

Decision.

G. A. PERDICARIES
vs.
THE CHARLESTON GAS LIGHT COMPANY ET AL.

The bill in this case was filed by the plaintiff in his own behalf, and in behalf of any others who might come in and contribute to the expenses of the suit.

It is stated that the shares in the Charleston Gas Light Company, stock belonging to the plaintiff and others, were sequestered under an act of the Confederate government, and sold during the civil war.

It is also stated that in lieu of those shares other shares of a corresponding amount were delivered to the purchasers, and the prayer of the bill is that the certificates thus issued may be declared invalid; that they may be ordered to be delivered up to be cancelled;
38 that the defendants may be restrained from bringing suit for transfer; and that the company may be restrained from allowing such transfer, and from the payment of dividends.

To this bill there is a general demurrer filed by part of the defendants, and a motion to dissolve the injunction already granted.

The only question in the case is, whether the parties are entitled to any relief in this court upon the case made by the bill. This question is twofold: First, whether the plaintiffs have a case of equity; second, whether this court has jurisdiction of the controversy between the plaintiff and defendants.

It is not claimed that the transfer of shares sequestered and sold under the authority of the Confederate government conveyed exclusive title to the defendants. It has been repeatedly decided, both by the circuit court and by the Supreme Court of the United States, that all acts of the Confederate government, or the government of a State hostile to the United States and prejudicial to the rights of citizens of States adhering to the Union, are void and convey no title.

Perdicaries is a citizen of an adjoining State. It is proper to
39 add that the Gas Light Company has acted upon the principle just stated. It is true that it erased from the books the names of the original stockholders, whose stock was sold under the sequestration act, and issued new certificates to the purchasers. But this was during the war. Since the war ended it has re-instated the names of the original stockholders, and recognizes fully their right to dividends. The certificates issued to the purchasers from the Confederate receiver are, however, still outstanding.

Perdicaries, as owner of original stock, claims the interposition of the court against the defendants, who, in virtue of their purchases from the receiver, assert a claim to be recognized as stockholders upon an equality with himself.

It is very clear that M'r Perdicaries has a good case in equity. If the whole stock had belonged to stockholders residing in other States, and had been sold under the sequestration act, and it can be maintained, after the war, that the purchasers are entitled to recognition equally with the original stockholders, it is very clear the value of the stock to the latter would be reduced just one-half.

This shows very clearly the equity of M'r Perdicaries. There is no way by which he can be relieved except by a court of equity.

40 But it is insisted that the company itself should bring suit, and that Perdicaries, being only a stockholder, cannot be heard in this court. We do not agree to this view. It is not denied that if the company had refused to institute proceedings the stockholders might do so. There is no principle of equity administration which denies to a stockholder protection in a court of equity. It is true that the corporation represents the corporate interests, and in this case it would, perhaps, be most appropriate that the corporation should bring a suit for its own protection and for the protection of the rights of the original stockholders. But it has at least neglected and omitted to do so. Under such circumstances any stockholder may proceed. We think the bill filed in this case by the plaintiff for his own benefit, and for the benefit of his co-stockholders, is properly conceived, and that upon the case made by it the plaintiff is entitled to the relief asked.

The demurrer must be overruled, and the motion to dissolve the injunction must be denied. The defendants will have leave to answer under the rule.

41 And on the 19th day of July, 1869, came into court W'm Carrington, one of the defendants, by his solicitors, Campbell & Seabrook, and filed the following answer, which answer is in the words and tener following:

Answer.

UNITED STATES OF AMERICA:

Fourth circuit, South Carolina district. In equity.

The separate answer of William Carrington to the bill of complaint of Gregory A. Perdicaries:

This defendant, saving and reserving to himself all right and benefit of exception to the said bill, for answer thereto saith:

That he does not admit or deny the allegation of the plaintiff in his said bill as to his having been or being now the owner of certain shares in the capital stock of the Charleston Gas Light Company. He has not now and never did have any knowledge thereof.

As to the alleged seizure and confiscation of the stock alleged to be the property of the plaintiff and of other persons named in said bill, this defendant knows nothing whatsoever; whether the president and directors of said company were ordered and compelled by a competent court, or by any court at all, to issue certificates of new stock, or to do any act beyond the limits of their official authority, is entirely unknown to this defendant. He knows and alleges that he purchased, some time about the 2nd of May, 1862, by his agents, H. W. Conner & Co., 100 shares of the capital stock of the Charleston Gas Light Company, and paid for the same the price at which they had been knocked down to him.

38*a* This defendant avers that he was entirely ignorant of the fact (if it be indeed true, which he does not admit) that the stock sold to him was sold by decree of any court or by John W. Caldwell, acting as receiver, under the authority of the Confederate States government, or of the Confederate States district court, or by the said John W. Caldwell, at all, or by any other person than William H. Wesson, from whom he understood that he had purchased, and who afterwards made the transfer upon the books of the said company of the said 100 shares of stock to this defendant.

And as to the other fifty (50) shares of said stock, this defendant says that they were purchased by him on or about the 21st of January, 1863, from Wilbur & Son, brokers and auctioneers, and that the transfer of the said 50 shares was subsequently made on the books of said company by the said Wilbur & Son to this defendant.

And this defendant denies that he ever had any notice whatsoever at the time of the two several sales and purchases of stock above mentioned that there was or could be any flaw or defect in the title which the said company gave. And he denies that he had any reason to think or suspect that the certificates of the said company then issued was

39*a* spurious or not a sufficient and proper title to the said stock.

He denies that his said title is in any way defective, or is other than a good and valid contract between the said company and himself. He purchased the stock in open market, and was not required by law to inquire or ascertain the name of the vender; and for that reason did not make or think of making the said inquiry.

He did receive from said company certificates declaring him entitled to 150 shares in the capital stock of said company, and the said certificates are in the hands of this defendant's solicitors, ready to be produced when required by this honorable court.

This defendant has been informed and believes it to be true that the

said company did volunteer to give information to the agents and officers of the so-called government of all stocks owned by persons living beyond the borders of the Confederate States as the property of alien enemies; and that the said company combined with and assisted
40*a* the said agents and officers to confiscate, sequestrate, and sell the said stock. And that all or a large portion of said stock was in fact offered for sale, and was sold from time to time, by divers brokers in Charleston, without any disclosure being made or information given of the circumstances under which such sales were made, or the authority directing the same.

And this defendant further says that the said stock was sold to and purchased by him in the usual and ordinary manner, according to the customary course of trade; and it was not in fact and could not be known to this defendant (if indeed the fact was so, which he does not admit) that the stock sold to him was unlawfully sequestrated property.

As to the allegation in the said bill that the issue of said stock was made under the constraint and duress of an order of the district court, so named, of the Confederate States, this defendant is constrained to deny the said allegation, and says that he has understood, and believes it to be true, that many orders affecting the rights and intended to dispose of the property of other absent citizens of the United States,
41*a* identical in form and substance with the order which is alleged in said bill to have been made and enforced upon said company, were made by the same, and attempted to be made upon many persons, and among others upon the Planters and Mechanics' Bank of Charleston, and that the said orders were resisted, and were not and could not be enforced and executed; and that in particular the said Planters and Mechanics' Bank, by Daniel Ravenel, esquire, its president, refused to comply with a like order respecting a certain bill of exchange, and did not in fact obey the said order, and thereby, and by the fidelity of the said president of said bank, the rights and interests of an absent citizen were protected and preserved.

And this defendant, further answering, says that if the said company assisted in making, or consented to, or was in any way privy to an unlawful appropriation of the plaintiff's stock in his absence, or to any unlawful improper issue of new stock, and if the plaintiff is in any way injured thereby, or by any other act of the said company, he ought and must look for redress to said company, and to their president and
42 directors, their executive and responsible officers, and not to third persons, who were in fact deceived and misled by the acts of said officers.

And this defendant submits that he is entitled not only to his said 150 shares in the capital stock of the said company, but also to all dividends which have been declared and are due thereon since their purchase; and having fully answered, he prays to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

W'M CARRINGTON,
CAMPBELL & SEABROOK,
Def'd't's Sol'rs.

Personally appeared W'm Carrington, the above-named defendant who, being sworn, says that the matters and things stated and alleged in his foregoing answer, so far as they depend upon his own knowledge, are true, and so far as they depend upon information and belief he believes them to be true.

W'M CARRINGTON.

Subscribed and sworn to before me this 19th July, A. D. 1869.
HENRY SEABROOK,
Notary Public.

43 And on the 19th day of July, 1869, came into court Dewing, Thayer & Co., defendants, by their solicitors, Campbell & Seabrook, and filed the following answer, which answer is in the words and tenor following:

Answer.

UNITED STATES OF AMERICA:

Fourth circuit, South Carolina district. In equity.

The joint and several answer of Hiram Dewing, Emery Thayer, Charles S. Huntoon, and H. D. Burkett, late copartners trading under the firm and style of Dewing, Thayer and Company, to the bill of complaint of Gregory A. Perdicaries:

These defendants, saving and reserving to themselves all right and benefit of exception to the said bill, for answer thereto say:

That they do not admit or deny the allegation of the plaintiff in his said bill as to his having been or being now the owner of certain shares in the capital stock of the Charleston Gas Light Company. They have not now and never did have any knowledge thereof.

44 As to the alleged seizure and confiscation of the stock alleged to be the property of the plaintiff and of other persons named in bill, these defendants know nothing whatsoever.

Whether the president and directors of said company were ordered and compelled by a competent court, or by any court at all, to issue certificates of new stock, or to do any act beyond the limits of their official authority, is entirely unknown to these defendants.

They know and allege that they purchased at public auction some time about the 11th day of February, 1863, from John S. Riggs, a broker of the city of Charleston, four hundred shares of the capital stock of the Charleston Gas Light Company, and paid for the same the price at which they had been knocked down to them. The next day the defendant, Hiram Dewing, called at the office of the said company to procure the certificate of the said purchased stock, and inquired of the transfer clerk who was the person that had sold the stock.

He refused to disclose the name, and gave as the reason that the vender had more stock to sell, and did not wish his name made known, and had so requested.

45 These defendants aver that they were entirely ignorant of the fact (if it be indeed true) that the stock sold to them by the said John S. Riggs was sold by decree of any court, or by John W. Caldwell, acting as receiver under the authority of the Confederate States government, or of the Confederate States district court, or by the said John W. Caldwell at all; that they did not know at the sale who was the vendor of the stock, and subsequently upon application to the company for the information it was refused to them.

And these defendants deny that they had any notice whatsoever that there was or could be any flaw or defect in the title which the said company gave them, or that they had then or have now any reasons to think or suspect that the certificate of the said company then issued

was spurious, or was not or is not now a sufficient and proper title to the said stock.

They deny that their said title is in any way defective, or is other than a good and valid contract between the said company and themselves. They purchased the stock in open market. They were not required by law to inquire or ascertain the name of the vendor,
46 but they did make the inquiry and the information was withheld by the said company. They did receive from said company a certificate that they were entitled to a certain number of shares in the capital stock of said company, and the original' of said scrip are in the hands of the defendant's solicitors, ready to be produced when required by this honorable court.

These defendants have been informed and believe it to be true that the said company did volunteer to give information to the agents of the so-called Confederate government of all stock owned by persons living beyond the borders of the Confederate States as the property of alien enemies, and that the said company combined with and assisted the said agents to confiscate, sequestrate, and sell the said stock, and that all or a large portion of said stock was in fact offered for sale and was sold from time to time by divers brokers in Charleston, without any disclosure being made or information given of the circumstances under which such sales were made, or the authority directing the same.

47 And the defendants further say that the said John S. Riggs advertised for sale and sold the stock purchased by the defendants in what they had no reason to suppose was other than his usual course of business, and did in fact so suppose and believe, and do so believe at present, and it was not in fact and could not be known to these defendants, (if indeed the fact be so, which they do not admit,) that the stock sold was sequestrated property.

As to the allegation in the said bill that the sale of said stock was made under the constraint and duress of an order of the district court, so-named, of the Confederate States, these defendants are constrained to deny the said allegation, and says that they have understood and believe it to be true that many orders affecting the rights and intended to dispose of the property of other absent citizens of the United States, identical in form and substance with the order which is alleged in said bill to have been made and enforced upon said company, were made by the same court and attempted to be enforced upon many persons, and among others upon the Planters and Mechanics' Bank
48 of Charleston, and that the said orders were resisted and were not and could not be enforced and executed; and that, in particular, the said Planters and Mechanics' Bank, by Daniel Ravenel, its president, refused to comply with a like order respecting a certain bill of exchange, and did not obey the said order, and thereby, and by the fidelity of the said president of said bank, the rights and interests of an absent citizen were protected and preserved.

And these defendants, further answering, say that if the said company assisted in making, or consented to or was in any way privy to an unlawful appropriation of the plaintiff's stock in his absence, or to any improper and unlawful issue of new stock, and if the plaintiff is in any way injured thereby, or by an' other act of the said company, they must and ought to look for redress to the said company and to their president and directors, their executive and responsible officers, and not to third persons who were in fact deceived and misled by the acts of said officers.

49 And these defendants submit that they are entitled not only to

their shares in the capital stock of said company, but also to all dividends which have been declared and are due thereon since their purchase; and having fully answered, they pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

CAMPBELL & SEABROOK,
Def'd'ts' Sol'rs.

CHARLESTON, 11*th February*, 1873.

M'r H. Dewing bo't on ⅜ of Dewing, Thayer & Co. To J. S. Riggs, Dr., broker, auctioneer, and general commission & collecting agent, No. 4 State street:

To 400 shares Charleston Gas Co. st'k, @ $32⅛	$12,850 00
850 city 6 % st'k, @ $112	952 00
	$13,802 00

Rec'd p'y't.

J. S. RIGGS.

I swear that the above is a true copy of the original which is in my possession.

H. B. CLARKE.

Sworn to before me this 16th July, 1869.

A. E. COHEN,
Notary Public.

50 STATE OF SOUTH CAROLINA,
Charleston County:

Personally appeared before me H. B. Clarke, who, being sworn, says that he has read the foregoing answer and considered the same; that he was the book-keeper of Dewing, Thayer & Co. before and during the year one thousand eight hundred and sixty-three; that he has personal knowledge of all the facts alleged in said answer, and avers that they are true.

H. B. CLARKE.

Subscribed and sworn to before me this sixteenth day of July, A. D. 1869.

A. E. COHEN,
Notary Public.

And on the 19th day of July, 1869, came into court George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, and William L. Trenholm, by their solicitors, Campbell & Seabrook, and filed the following answer, which answer is in the words and tener following:

Answer.

UNITED STATES OF AMERICA:

51 Fourth circuit, South Carolina district. In equity.

The joint and several answer of George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, and William L. Trenholm, by the name of John Fraser and Company, who are impleaded, and formerly were copartners, under the name and style of John Fraser and Company, to the bill of complaint of Gregory A. Perdicaries:

These defendants, saving and reserving to themselves all right and

benefit of exception to the said bill of complaint, for answer thereunto say:

That on or about the day of April, A. D. 1862, they purchased at public auction, in the city of Charleston, one hundred shares of the capital stock of the Charleston Gas Light Company, and subsequently, on the 14th day of the same month, received from the said company a certificate duly signed by its president, John Schnierlie, and its secretary and treasurer, declaring John Fraser and Company entitled to one hundred shares of the capital stock of said company; whereupon
52 they paid their money for the purchase and rested secure therein, looking to the said company for protection of their title.

They did hear, but not from the said company, that the stock so purchased by them had been sold by order of the Confederate district court by the receiver of said court, John W. Caldwell, but whether with the assent and concurrence of the said company they did not hear or know till they received said certificate of title.

They are quite willing that the plaintiff may have all the benefit of this admission, if any there be.

And these defendants say further that what they intended to buy and did buy was one hundred shares of stock, and when they received the certificate of the said company that they had got what they bought, they relied upon it and paid their money.

They deny the charge, in said bill, of combination and confederacy between themselves and the said company, or any other person or persons whomsoever, to have or take any advantage of the plaintiff, or of any other person, in the matter.

They deny that they did accept, or would have accepted, a
53 title to said stock from John W. Caldwell, receiver, or any other person other than the company itself.

If the officers of the company have unlawfully undertaken to surcharge the *the* stock by an improper issue of new stock to these defendants or others, these defendants are not, but the company is, responsible therefor.

If the officers of said company did, as now appears, combine with the agents, officers, or courts of the Confederate States government in an attempt to deprive the plaintiff of his stock, they did him a wrong which they, and not these defendants, are responsible for.

And if they issued to these defendants a certificate of stock which they had no right to issue, then they did these defendants a wrong which they are and ought to be responsible for.

The wrongs of the plaintiff and of these defendants may be and should be redressed upon the wrongdoers, and not by one upon the other. The wrongdoer of two wrongs cannot discharge himself by protecting one sufferer at the expence of the other victim of his wrongful act.

These defendants deny that the officers of the said company acted under any coercion or duress when they issued to them their cer-
54 tificate of stock, unless it was such coercion and duress as they had invited and desired, and which they could have avoided if they had wished.

The said Charleston Gas Light Company, through their proper officers, certified to these defendants that they were and are lawfully entitled to one hundred shares in their capital stock. They did this with full knowledge of what they were doing, with full information, without any inducement or representation or persuasion of these defendants, who thereupon paid their money. If these defendants had bought and taken the right, title, and interest of the Confederate States and taken their certificate thereof, they would not complain because of its being

worthless and they without redress. But they did not do this. They took the certificate of the said company that they had got what they purchased, and the company is bound by it and must look to their officers who have bound them, or as they may be advised, for their redress.

And having fully answered, these defendants pray to be hence dismissed with their reasonable costs in this behalf most wrongfully sustained.

JOHN FRASER & CO.

CAMPBELL & SEABROOK,
Def'd'ts' Sol'rs.

55 Personally appeared before me Theodore D. Wagner, one of the copartners of the firm of John Fraser and Company, who, being sworn, says that the matters and things above set forth as of his own knowledge are true, and so far as they are derived from others he believes them to be true.

THEODORE D. WAGNER.

Subscribed & sworn to before me this 19th day of July, A. D. 1869.
HENRY SEABROOK,
Notary Public.

And on the 23rd day of July, 1869, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and obtained the following order to amend bill, which order is in the words and tener following:

Order to amend bill.

UNITED STATES OF AMERICA:

Fifth circuit, South Carolina district. In equity.

G. A. PERDICARIES, A CITIZEN OF STATE OF New Jersey,
vs.
THE CHARLESTON GAS LIGHT COMPANY,
56 W'm Carrington et al., citizens of the State of South Carolina, et al.

On motion of Memminger, Jervey & Pinckney, complainants' solicitors, it is ordered that the complainant have leave to amend his bill by setting forth that the defendanst, or some one of them, claim to have an action on the case against the Charleston Gas Light Company, by reason of the issue of the certificates of stock mentioned in the bill, which such defendant or defendants charge were issued by the said company fraudulently and in collusion with the said sometimes Confederate States of America or their agent, and by so extending the relief prayed for in said bill as to pray an injunction to restrain the said defendants from bringing or prosecuting any suit or action against the said gas-light company for and on account of said certificates, or any of them, or of the stock purported to be represented thereby, or of the act of the said company in creating the same, and that all questions involved in or arising from the issue of such certificates may be heard and adjudicated in this case, so as to avoid multiplicity of suits,

57 and that the plaintiffs may have such other relief as may be agreeable to equity.

23 July, 1869.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 26th day of July, 1869, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey and Pinckney, and filed the following replication, which replication is in the words and tener following:

Replication.

UNITED STATES OF AMERICA:

Fifth circuit, So. Ca. district. In equity.

G. A. PERDICARIES, A CITIZEN OF STATE OF N. Jersey,
vs.
THE CHARLESTON GAS LIGHT COMPANY, W'm Carrington et al., citizens of State of So. Ca., et al.

Replication to answer of Jno. Fraser & Co., Dewing, Thayer & Co., & W'm Carrington.

This replicant, saving and reserving unto himself all and all
58 manner of advantage of exception to the manifold insufficiencies of the answers of the said defendants, for replication thereto, saith that he will aver and prove his said bill to be true, certain, & sufficient in the law to be answered unto, and that the said answers of the said defendants are uncertain, untrue, & insufficient to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed, & avoided, traversed or denied, is true; all which matters and things this repliant is now and will be ready and willing to aver and prove as this hon'ble court shall direct, and humbly prays as in and by his said he hath already prayed.

MEMMINGER, JERVEY & PINCKNEY,
Compl't's Sol'rs.

And on the 26th day of July, 1869, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following amended bill, which amended bill is in the words and tener following:

Amended bill.

UNITED STATES OF AMERICA:

59 Fifth circuit, South Carolina district. In equity.

GREGORIE A. PERDICARIES, A CITIZEN OF New Jersey,
vs.
THE CHARLESTON GAS LIGHT COMPANY ET al., citizens of South Carolina.

Amendments to the bill of complaint in this cause, made pursuant to an order of this court, dated the twenty-third of July, one thousand eight hundred and sixty-nine.

Your orator further sheweth that since the filing of the original bill

in this cause, some of the defendants, to wit, Dewing, Thayer and Company, W. Carrington, and John Fraser and Company, have sued out writs of trespass on the case against the Charleston Gas Light Company for account of the issue of the certificates of stock mentioned in the bill, and that they charge that said certificates were issued fraudulently and in collusion with the sometime Confederate States of America, or their agent or officer; and that the said Charleston Gas Light Com-
60 pany is bound to make good the said certificates or to indemnify the said parties; which said charge your orator wholly denies, and insists that the same is not true, and that even if it were, your orator insists that it is not competent to the said *to the said* parties, or any of them, to withdraw the cognizance of the said charges from the jurisdiction of this honorable court.

And your orator apprehends, and he has reason to believe, that unless restrained by this honorable court, other defendants may attempt the same course, and may bring many suits for the same subject-matter which, your orator alleges, has been put in issue in this bill of complaint.

And your orator prays that this honorable court will, by its writ of injunction, restrain the said Dewing, Thayer and Company, John Fraser and Company, W. Carrington, and all and singular the defendants from bringing or prosecuting any suit or action against the said the Charleston Gas Light Company, for and on account of the said certificates of stock, or any of them, or of the stock purporting to be represented thereby, or of the act of the said company in creating the
61 same; and that all questions involved in or arising from the issue of such certificates may be heard and adjudicated in this case, so as to avoid multiplicity of suits, and that the plaintiff may have such further and other relief as may be agreeable to equity, or to your honor may seem meet. May it please your honor not only to grant unto your orator a writ or writs of prohibition, as above prayed for, but also a writ or writs of subpœna, to be directed to the said Charleston Gas Light Company, and the said Thomas Barrett, Bank of Newberry, South Carolina; E. M. Beach, Virginia J. Cohen, administratrix; J. S. Cohen, William Carrington, O. J. Chafee, Jos. C. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, B. O'Neill, M. Mordecai, People's Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles J. Huntoon, & Henry D. Burkett; George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, William L. Trenholm, commanding them and each of them, on a certain day and under a certain penalty therein to be inserted, to be and appear before this hon-
62 orable court, then and there to answer the premises, and to stand to and abide by such order and decree as to this honorable court shall seem meet and agreeable to equity.

And, as in duty bound, your orator will ever pray, &c.

MEMMINGER, JERVEY & PINCKNEY.
Compl't's Sol'rs.

And on the 28th October, 1869, came into court The People's Bank, one of the defendants, by its solicitors, Simonton & Barker, and filed the following answer, which answer is in the words and tener following:

Answer.

UNITED STATES OF AMERICA,
District of South Carolina:

In equity.

The seperate answer of the People's Bank of South Carolina, a body corporate under the laws of the State of South Carolina, to the bill of complaint of Gregory A. Perdicaries, impleading it with the Charleston Gas Light Company and others.

This defendant, saving and reserving to itself all and all manner of exception to the many errors, informalities, & irregularities in
63 the said bill of complaint contained, for answer thereto, or to so much and such parts thereof as it is advised that it is material or necessary for it to make answer unto, answering, says:

That it knows nothing of the matters and things set forth in the bill, beyond mere rumor; that its connection with the case grows out of the following transaction: About the middle of the year 1863 the Bank of Newberry proposed to sell to this defendant certain shares owned by it in the Charleston Gas Light Company, and after some treaty this defendant agreed to purchase said shares, and, pursuant to said agreement, it was furnished with a certificate, signed by the president & secretary, & sealed with the seal of the corporation, certifying that the said Bank of Newberry was entitled to one hundred shares in the capital stock of said Charleston Gas Light Company, and that this defendant, relying upon said certificate and giving it that faith and credit to which it seems entitled, *this defendant* completed the purchase of said stock, paid the money therefor to said Bank of Newberry, presented the certificate furnished to it, surrendered the same, and received
64 from said gas-light company a certificate in the words and figures following, that is to say:

No. 2184.] (Vignette.) [100 shares.

THE CHARLESTON GAS LIGHT COMPANY.

CHARLESTON, S. C.,
September 22d, 1863.

This certifies that the People's Bank of So. Ca. is entitled to one hundred shares in the capital stock of the Charleston Gas Light Company.

Transferable only on the books of the said company by the People's Bank of So. Ca., or their attorney.

In witness whereof we have hereunto affixed our hands and the seal of the corporation.

[SEAL.] J. SCHUIERLE, *Pres't.*
JOHN R. HERIOT, *Sec.*

Par value, 25 dollars.

I have constituted and hereby do constitute my lawful attorney, with power to substitute another attorney or attorneys, for me and in my name to transfer the stock contained in this certificate to the bearer.

Witness my hand this day of , 18 .

65 Signed in the presence of—

And this defendant, further answering, solemnly avers that the said

stock was purchased bona fide, for valuable consideration, & without notice in any way of any right, title, claim, or demand, in or to the said stock, on the part of any person or persons whomsoever, other than the said Bank of Newberry.

That neither it nor its officers and agents engaged in said purchase had any notice, express or implied, that the said stock was the property of any person against whom process of sequestration could have been or which had been commenced, prosecuted, or completed,

That neither it nor they, nor any of them, had any notice in any way that the said stock, or any part thereof, had been sequestrated or sold, or meddled with, by any officer of the so-called Confederate government or by any person or persons whomsoever.

And this defendant, further answering, says that, so far from being a wrong-doer, it has suffered foul wrong at the hands of the said
66 gas company, its codefendant in this suit; that, being induced by the signature of its officers, and relying upon its certificate under seal, this defendant invested its assets in said stock, and has now been deprived, not only of the dividends to which it had claim, but is threatened with confiscation of the money expended by it in its reliance upon the certificate, and with no notice of any defect in the title thereto, nor of any cloud upon such title, nor with any intimation that any act or thing had been done with respect to any previous owner of the said stock, which could in the future affect the validity of the transfer.

And this defendant, further answering, submits that, whatever may be the rights of complainant and of other stockholders in the same plight with him as between it and its codefendant, the gas-light company, it is entitled to its decree for the full value of the stock obtained by this defendant in a purchase induced by the certificate of the said defendant, the Charleston Gas Light Company.

Further answering, this defendant denies, and so forth, and prays to be hence dismissed, and so forth.

67 SIMONTON & BARKER,
Solic'rs.

STATE OF SOUTH CAROLINA:

Before me personally appeared James S. Gibbes, president of the People's Bank, and, on oath, says that the matters and things in the above answer stated, so far as they come within his own knowledge, are true, and such as are derived from the information of others he believes to be true.

JAMES S. GIBBES,
President.

Sworn to before me this 28th October, A. D. 1869.
[L. S.] D. B. GILLILAND,
Not'y Public.

And on the 25th day of February, 1870, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following replication to answer of People's Bank of So. C'a, which replication is in the words and tener following:

Replication to answer of People's Bank.

UNITED STATES OF AMERICA:

Circuit, South Carolina district. In equity.

68 G. A. PERDICARIES
vs.
THE CHARLESTON GAS LIGHT COMPANY, The People's Bank of South Carolina et al.

} Replication of Gregory A. Perdicaries to the answer of the People's Bank of South Carolina.

This replicant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereto saith, that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is now and will be ready and willing to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

69 MEMMINGER, JERVEY & PINCKNEY.
Compl't's Sol'rs.

And on the 9th day of March, 1870, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following suggestion; which suggestion is in the words and terms following:

Suggestion.

UNITED STATES OF AMERICA:

Circuit, South Carolina district. In equity.

G. A. PERDICARIES
vs.
CHARLESTON GAS LIGHT COMPANY ET AL.

} Suggestion.

And now the said complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey and Pinckney, at this day comes here into court and gives this honorable court to understand and be informed that, since the last continuance of this case, two of the defendants, to wit, O. J. Chafee and H. H. Williams, have departed this life, and that M'r's Mary
70 A. Chafee and Benjamin W. Walpole, qualified as executors of the last will and testament of the said O. J. Chafee; and that H. H. Williams has taken out letters of administration on the estate of the said H. H. Williams, deceased; and prays that the said M'r's Mary A. Chafee and Benjamin W. Walpole, executrix & executor as aforesaid, and the said H. H. Williams, administrator, do, within the time prescribed by law, plead, answer, or demur to the bill in this case.

MEMMINGER, JERVEY & PINCKNEY,
Compl't's Sol'rs.

And on the 9th day of March, 1870, came into court the complainant, A. G. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following subpœna ad respondendum; which subpœna is in the words and tener following:

Subpœna ad respondendum.

UNITED STATES OF AMERICA:

Circuit, State of South Carolina.

The President of the United States of America to M'r's Mary A. Chafee, executrix, and B. W. Walpole, executor of O. J. Chafee, deceased,
71 and H. H. Williams, administrator of H. H. Williams, deceased, citizens of South Carolina:

You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the 1st Monday of April next, twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of Gregory A. Perdicaries, a citizen of New Jersey.

And also that you do, on the rules-day next immediately after the day appointed and expressed, file, or cause to be filed, in the registry of said court your plea, answer, or demurrer to the said bill of complaint.

Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

Witness the honorable Salmon P. Chase, Chief-Justice of the United States of America, at Charleston, in South Carolina district aforesaid,
72 the ninth day of March, in the year of our Lord one thousand eight hundred and seventy, and in the ninety-fourth year of the sovereignty and Independence of the United States of America.

MEMMINGER, JERVEY & PINCKNEY,
Complainant's Solicitors.

[SEAL.]

DAN'L HORLBECK,
C. C. C. U. S. for S. C.

Services.

We accept service and appear for def'd't.
March 21st, 1870.

H. H. WILLIAMS.
BROWN & MIKELL,
Def'd'ts' Sol'rs.

Ent'd 24 March, '70. Folio 14.

L. E. JOHNSON,
U. S. Marshal.

UNITED STATES MARSHAL'S OFFICE,
South Carolina District,
Charleston, 24 March, 1870.

I hereby depute Francis L. Walker, deputy U. S. marshal, Aiken, S. C., to execute the within process.

L. E. JOHNSON,
U. S. Marshal.

73 AIKEN, S. C., 28 *M'ch*, 1870.

I hereby certify that I executed the within process by delivering a subpœna to M'r's Mary A. Chafee and to M'r W. B. Walpole personally, at their respective residences in the town of Aiken, on the 28 day of March, 1870.

FRANCIS L. WALKER,
Special Deputy.

And on the 12th day of April, 1870, came into court the Charleston Gas Light Company, by its solicitor, H. E. Young, and filed their answer; which answer is in the words and tener following:

Answer.

UNITED STATES OF AMERICA,
South Carolina District:

In the circuit court. In equity.

The several answer of the Charleston Gas Light Company to the bill of complaint of Gregorie A. Perdicaries.

This defendant, reserving to itself all right and benefit of exception to the said bill of complaint, for answer thereunto, nevertheless, or unto so much and such parts thereof as it is advised it is material or
74 necessary for it to answer unto, answering, says:

That it is a body corporate and politic, under the laws of the State of South Carolina, having its place of business in the city of Charleston, in the State of South Carolina.

That its charter was granted to it in the year eighteen hundred and forty-six, and though amended from time to time, exists now in most respects substantially the same as originally granted.

That the said charter, as amended and now of force, authorizes the said company to have a capital of one hundred thousand dollars, with the right to increase the same to one million (1,000,000) dollars, in shares of twenty-five dollars each; and provides that said increase over and above the sum of two hundred thousand (200,000) dollars shall in sums of not less than ten thousand dollars, and that such additional stock shall be divided ratably among the stockholders, in proportion to their shares at the time of such increase; and in case any stockholder shall refuse to take his share of such increased stock, that the same shall be allotted among the remaining stockholders, or books shall be opened for the pur-
75 pose of obtaining additional subscribers to such increased stock, in such manner as the company may deem expedient.

Further answering, this defendant says:

That its stock, from the commencement of the late war between the United States and the Confederate States, to wit, the 20th day of December, A. D. 1860, to this present time, consisted and now consists of 30,664 shares, and that of such shares 3,766, of the par value of ninety-four thousand one hundred and fifty (94,150) dollars, at the beginning and during the continuance of the said war belonged to citizens of the Northern States, commonly known as loyal States, the names and residences of whom, and the number of shares held by each of them respectively, is correctly given in the said bill of complaint.

That on the thirtieth day of August, anno Domini eighteen hundred

and sixty-one, the government known as, and which hereinafter, for the sake of brevity, shall be designated the "Confederate States of America," being in many respects a de facto government, and having paramount force and authority in the said State of South Carolina, enacted a law, a copy of which is hereto annexed and marked "Exhibit A," and unto which reference is craved whenever necessary.

76 The said act sequestered all and every the lands, tenements, hereditaments, goods and chattels, rights and credits, within the said Confederate States, and every right, interest therein held, possessed, or enjoyed, or for any alien enemy since the twenty-first day of May, anno Domini eighteen hundred and sixty-one; that by "alien enemy" in the said act was meant and intended all the citizens of the northern or "loyal States," except the citizens of Delaware, Maryland, Kentucky, Missouri, of the District of Columbia, New Mexico, Arizona, and the Indian Territory south of Kansas, not committing actual hostilities against the said Confederate States.

The said act made it the duty of every citizen holding or controlling such property of said alien enemies of the said Confederate States to give speedily information of the same, and to render to the receiver appointed under the said act an account thereof; and declared that any such person, wilfully failing to give such information, should be guilty of a high misdemeanor, and upon conviction should be fined a sum not exceeding five thousand (5,000) dollars and imprisoned not more

77 than six months, and further be liable to be sued and compelled to pay to the said Confederate States double the value of said property as aforesaid subject to sequestration.

That, despite of these heavy penalties, this defendant voluntarily gave no information in regard to the stock held by its northern stockholders; but as it was notorious that many of its shares were so held, it was finally compelled to disclose the same.

That some time early in the year (1862) eighteen hundred and sixty-two, John W. Caldwell, who had been appointed receiver under the said act, required John Schuierle, the then president of this company, to furnish a list of the northern stockholders and the number of shares held by each of them; and the said president then reluctantly, and for the fear of incurring, both for himself and the said company, the penalties prescribed in the said act, made the return required.

That pursuant to and in accordance with the provisions of the said act, proceedings in the court known as the district court of the said Confederate States for the district and State of South Carolina were had, and though the same were resisted in one case, used as a test case, even in the absence of the said northern stockholders, they were

78 all adjudged alien enemies of the said Confederate States, their stock sequestrated, and this defendant ordered to pass their shares to the credit of the said Confederate States, and furthermore to pay to the said Confederate States all dividends then due to such northern stockholders.

That upon being officially served by the said receiver with a certificate from Henry Y. Gray, clerk of the said district court of the said Confederate States, of such judgment and order, the said John Schuierle, president, called, on the 18th day of February, A. D. 1862, a meeting of the directors of the said company.

That Erastus Mills Beach, now claiming as the holder of two hundred shares of the sequestrated stock as above set forth, and which for brevity shall hereinafter be termed "sequestrated stock," was present at the said meeting, and, together with the other directors, voted to refer the

whole matter to counsel learned in the law, for instruction how to act on the said orders of the said Confederate district court.

On the 11th March, 1862, the said counsel having given his opinion, another meeting of the directors was held, and they being advised in said opinion that the company was "bound to pay" to the said
79 receiver the *the* dividend due to the said northern stockholders which had been sequestrated as aforesaid, and that the said act of sequestration was constitutional and valid and obligatory on the said company, but still that the company should not transfer the stock upon its books without a special order from the said court. The said E. M. Beach was present at this meeting, also, and joined his codirectors in this resolution then adopted, to wit, that the present conform to the instructions of the said counsel and pay over the said sequestered dividends and stock under the directions of the said counsel.

That on the 29th day of March, A. D. 1862, a decree of the said Confederate court was made directing the said receiver to sell at public auction, for cash, the shares of all the northern stockholders except Hay's, and ordering the president of the said company "to issue new certificates to the purchasers of said stock."

A meeting of the directors was then held, the said E. M. Beach being present and voting with his codirectors; and it was resolved that the president conform to the instructions of the said counsel and comply with the order of the Confederate court.

80 That some time in June or July, 1862, the shares of the said Hay were in like manner sequestered, and the company ordered to issue new certificate for the stock; that in this way all the shares which belonged to northern stockholders were passed to the credit of the said Confederate States, and the said northern stockholders were charged with the stock so credited to the Confederate States, and their accounts on the books of the said company being thus balanced their names disappeared from the list of stockholders.

That pursuant to the orders made by the said district court of the Confederate States the said receiver, as receiver, on the first day of April, A. D. 1862, advertised for sale at public auction 2,358 shares, being the shares of the said northern stockholders except Hoy's, and in said advertisement full notice was given to all concerned of the nature of the sale.

For greater certainty the defendant annexed hereto a copy of the said advertisement, marked "Exhibit B," and craves reference thereto whenever necessary. The said advertisement was published daily till the 10th of April, A. D. 1862, when the said shares were sold at prices ranging from twenty-one (21) $\frac{50}{100}$ dollars to twenty-two (22) dollars per
81 share; the genuine stock being then worth from twenty-five dollars to twenty-five $\frac{75}{100}$ dollars per share.

In like manner the shares, viz, 1,408, of the said James Hay were advertised for sale from the 7th to the twelfth of August, A. D. 1862, and were then sold for twenty-five $\frac{75}{100}$ dollars per share. The form of advertisement was the same as in the former cases and gave the same ample notice to purchasers of what they were buying.

That at the said sale of sequestrated stock, the following parties were the purchasers, at the sale on the 10th April, viz:

Thomas Barrett	200 shares.
Isaac S. Cohen	100 "
Otis J. Chafee	400 "
John Fraser & Co	100 "
Henry Daly	100 "

Artemus Gould	200	shares.
Isaac Harris	200	"
A. H. Hayden	100	"
James Hope	200	"
B. D. Lazarus	122	"
	1,722	
Number of shares bro't fo'ward	1,722	
M. Mordecai	86	shares.
B. O'Neill	50	"
James H. Taylor	50	"
W. H. Wesson	100	"
Charles Wessenger	100	"
Wilkinson & Fargo	200	"
W. B. Wilbur	50	"
On the sale on the 12th August, Bank of Newberry	1,408	"
Total No. of shares sequestrated	3,766	

That to the several purchasers of the said sequestrated stock the said receiver gave orders for the number of shares purchased respectively, of which the following is a fair example, to wit:

82 The president of the Charleston Gas Light Company will please issue scrip to the order of T. D. Wagner for one hundred shares stock.

(Signed) JOHN W. CALDWELL,
Receiver.

100. CHARLESTON, 11*th April*, 1862.

Which was endorsed as follows, to wit:

Issue scrip*t* for the within in the name of John Fraser & Co.
(Signed) T. D. WAGNER.

This defendant avers that it yielded obedience to the order of the Confederate States for the payment to their officers of the dividends due to its northern stockholders, and the transfer to the assignee of the said Confederate States of the stock which belonged to the said stockholders, and which the said Confederate States had compelled this defendant to pass to their, the said Confederate States', own credit, reluctantly and only through fear of the heavy penalties which were threatened, and which, as this defendant was advised, would have been inflicted upon the said company and its officers in case of disobedience to the said orders.

This defendant, tho' a mere stakeholder, and not bound to incur expenses for its stockholders, without special instructions, defended,
83 as above said, its stockholders on the trial in the said Confederate States district court, and yielded only when compelled by duress so to do.

And this defendant is advised that the acts of its officers, erasing the names of its northern stockholders from its books and passing their shares to the credit of the Confederate States and issuing new certificates to the purchasers of such shares, were absolutely null and void, and conveyed no title whatsoever, either to the Confederate States or their assignees, or the assignees of such assignees, and that the same

were null and void, not only on the grounds of public policy, as being (whether done under compulsion or not) acts of hostility to the Government of the United States, and prejudicial to the rights of its citizens adhering to the Union during the late war, but also as being in violation of the provisions of the charter of the said company, and beyond its authority.

That the act pretending to cancel the shares of the said northern stockholders being void, produced no change in their relations to the said company. They were as much its stockholders after as before such sequestration, and the issue of the new certificates of stock to the
84 purchasers of the said sequestered stock was really an increase of the capital of the company to the extent of ninety four thousand one hundred and fifty (94,150) dollars, and in disregard of the provisions of the charter hereinbefore recited.

This defendant, being a corporation, is advised that it is impossible for it to commit rebellion, as it is termed, or wage war. But it hesitates not to admit that, so far as it knows, the majority of its stockholders, like the purchasers of the said sequestered stock, remained of their own choice in the Confederate States during the late war, and upheld the government of the same, as they enjoyed the protection thereof. Least of all can the purchasers of the said sequestered stock at the said receiver's sale make any such pretence, as they had full notice of what they then purchased, and knew well that the purchase-money was paid by them to the said Confederate States to be used by it in waging the said war upon the said United States; and this defendant asserts that they made such purchase as well with the intent to aid in carrying on the said war against the said United States and to prejudice their citizens as well as also to speculate on the chance of the success of
85 the said Confederate States. They should not now complain that their speculation has failed.

Further answering saith this defendant, that of the said purchasers at public auction of the said sequestered stock the following persons have sold the shares then purchased by them, to wit:

Isaac Harris sold to Erastus Mills Beach	200	shares.
W. H. Wesson sold to William Carrington	100	"
Amount carried forward	300	"
Amount bro't forward	300	"
W. B. Wilbur sold to said William Carrington	50	"
Bank of Newberry sold to Dewing, Thayer & Company	400	"
Charles Weissenger sold to G. B. Jackson	100	"
Henry Daly sold to People's Bank	100	"
James H. Taylor sold to H. H. Williams	50	"
	1,000	"

worth at par twenty-five thousand (25,000) dollars.

This defendant avers that each and every of these purchasers (at second hand) of the said sequestered stock had full and complete notice that they were purchasing such stock sequestered and sold as aforesaid. They certainly could with ordinary diligence have obtained the information if they desired it. This defendant wished and proposed to add an ear-mark to the said sequestered stock by stamping on the
86 new certificates of stock apt words to indicate this, but was advised that the same would be deemed a contempt of court and would be punished accordingly.

This defendant did not debar any purchaser from obtaining information on the subject.

The assertion of Dewing, Thayer & Company in this behalf this defendant denies absolutely, and prays strict proof thereof. But whether the purchasers of Confederate stock at second hand had notice as aforesaid or not is, as this defendant is advised, a matter of no moment.

The acts of this defendant done in pursuance of the orders of the Confederate court were, ab initio, null and void, and could confer no title. And these purchasers at second hand took only the same title their assignors had, viz, the title of the Confederate States, or none at all.

The original pretended title being null and void, could not be rendered valid by assignment to others, and if these parties are ag'rieved they should look for redress to their vendors, to whom they paid the purchase-money, and not to this defendant, to whom no consideration
87 whatever was paid, and who merely registered the transfers of the stock, giving no title of itself at all.

And this defendant, further answering, saith that towards the close of the late war, to wit, on the 18th day of February, anno Domini eighteen hundred and sixty-five, (1865.) the city of Charleston, w'ere all the works of this defendant are situated, fell into the hands of the Federal forces, and with it was captured all the property of this defendant.

The officers of the United States Army, on the twenty-sixth day of January, anno Domini 1866, seized and took possession of the property of this defendant as captured property, and refused to restore the same to this company till it should have complied with certain conditions, to wit, till it had restored the northern or "loyal" stockholders to the possession of their stock as perfectly as if no attempt had been made to divest them of it by transferring on the books thirty-seven hundred and sixty-six (3,766) shares of stock issued by order of the Confederate court from those in whose names it now stands to those loyal citizens who
88 own it, but whose names have been stricken off the stock-ledger as owners, and by closing the accounts of the holders under the Confederate court, so that their names should disappear from the company's books as partners interested, while the names of the true owners should again appear as stockholders; that the company should pass certain resolutions carrying the above *above* into effect.

That shortly thereafter, to wit, on the 9th day of March, anno Domini eighteen hundred and sixty-six, at a meeting of the directors, the following prea'ble and resolutions were, in obedience to the orders of the commanding officer of the military district of South Carolina and of the United States, adopted and passed, to wit:

Whereas, at a meeting of the directors of this company, on the 11th of March and 8th of April, A. D. 1862, the then president was instructed to transfer under a compulsory order of the so-called Confederate court of South Carolina thirty-seven hundred and sixty-six shares of the capital stock of this company then owned and standing in the names of the following-named stockholders, to wit:

89	James Hay	1,400	shares
	George A. Perdicaries	1,354	"
	Frederick Brand	500	"
	W. S. Fartoute	132	"
	Theophilus Code	125	"
	Martha Stuver	81	"
	Am't car'd forward	3,600	"
	Amount bro't forward	3,600	shares

Hugh Elliott	62 shares
B. Kreishard & nephew	35 "
W. Hopper	31 "
John Murta	24 "
E. H. Dungan	9 "
E. B. Dungan	5 "
	3,766 shares

to persons who derived no titles from the owners of the said stock.

Whereas, in accordance with the instructions and under the compulsion of the so-called Confederate court, such stock was tranferred from the accounts of said stockholders, without their authority or consent and in violation of their rights, and certificates were issued and dividends then due such stockholders paid to persons designated by the so-called Confederate court;

And whereas the compulsion imposed by the so-called Confederate court is now removed, and this company is able to restore the lawful stockholders to their rights:

Therefore, be it resolved, That the said transfer of stock being declared without authority does not carry any right or title to those claiming it under the seizure of the so called Confederate court.

90 Resolved, That said stock be now transferred on the books of said company to the accounts of the above-named parties, so as to restore to each one the number of shares held by him at the time of said compulsory transfer, and the stock-accounts of the holders of said stock under the order of the said so-called Confederate court be now balanced.

Resolved, That the holders of said stock under the Confederate court being declared not lawful stockholders of this company, the certificates held by them are invalid.

Resolved, That the above-named stockholders are entitled to receive from this company the value of the dividends earned by it and paid over to the holders of the certificates issued under the order of the confederate court, or paid to its receiver, and that the present value is four dollars per share, and that the owners shall be paid out of the first available resources of this company, with legal interest from this date until paid.

Resolved, That twenty thousand ($20,000) dollars of the first-mortgage bonds of this company, heretofore ordered and to be issued, secured by a mortgage of the gas-works, be delivered to Duncan, Sher-

91 man & Co., New York, as trustees for the above-named stockholders, to secure them the payment of the said sum of four dollars per share, with interest, within one year from this date, and with authority to deliver to any of such stockholders, or their assigns, so much of said bonds at par as may pay them the sum of four dollars per share on the stock held by them, if they should prefer to accept bonds in payment, and to sell so many of said bonds as may be necessary to pay the said sum of four dollars per share, and interest, at the end of one year from this date, if in the mean time the said sum has not been paid by this company, or by the acceptance of the bonds in payment, and with the proceeds of such sale to pay the sum of four dollars *dollars* per share, with interest, to each of said stockholders.

That on the seventh day of April, anno Domini eighteen hundred and sixty-six, the Secretary of the Treasury of the United States, Hon. Hugh McCulloch, in consideration of what the said company had done, as indicated by the said resolution, and of the same having been car-

92 ried into effect, directed the restoration of the works to the company, and on the eighth of May next following the company resumed possession of its property.

On the fourteenth day of May, A. D. 1866, at a meeting of the stockholders, the course of the directors in this matter was confirmed.

That this defendant is advised that the acts of the United States commonly known as the reconstruction acts being constitutional and valid, the said action of the United States Government is a complete bar to any claim which the purchasers of the said sequestered stock may or can have against this defendant by reason of the issue to the said parties, as well the purchasers from the Confederate States at first hand as the purchasers at second hand, of the scrip of this company.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith it is by the said bill charged, without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary

93 for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, true to the knowledge or belief of this defendant.

All which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly prays to be hence dismissed, with its reasonable costs and charges in this behalf most wrongfully sustained.

H. E. YOUNG,
Sol'r for Gas Company.

UNITED STATES OF AMERICA,
South Carolina District:

Personally before me made oath James Ravenel, president of the Charleston Gas Light Company, that the matters and things in the above answer contained, so far as the same are of his own knowledge, are true and correct, and so far as they are derived from the information of others he believes them to be true.

JAMES RAVENEL,
President.

Sworn to before me this sixth day of April, A. D. 1870.
JENNINGS W. PERRY,
Notary Pub. & Ex-Off. Mag.

94 EXHIBIT A.

An act for the sequestration of the estates, property, and effects of alien enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States.

Whereas the Government and people of the United States have departed from the usages of civilized warfare in confiscating and destroying the property of the people of the Confederate States, of all kinds, whether used for military purposes or not; and whereas our only protection against such wrongs is to be found in such measures of retaliation as will ultimately indemnify our own citizens for their losses, and restrain the wanton excesses of our enemies: Therefore,

SECTION 1. Be it enacted by the congress of the Confederate States of America, That all and every the lands, tenements, hereditaments, goods and chattels, rights and credits, within these Confederate States,

and every right and interest therein held, owned, possessed, or enjoyed by or for any alien enemy since the twenty-first day of May, one thousand eight hundred and sixty-one, except such debts due to an alien enemy as may have been paid into the treasury of any one of the Confederate States prior to the passage of this law, be, and the same are hereby, sequestrated by the Confederate States of America, and shall be held for the full indemnity of any true and loyal citizen or resident of these Confederate States, or other person aiding said Confederate States in the prosecution of the present war between said Confederate States and the United States of America, and for which he may suffer any loss or injury under the act of the United States, to which this act is retaliatory, or under any other act of the United States, or of any State thereof, authorizing the seizure, condemnation, or confiscation of the property of citizens or residents of the Confederate States, or other person aiding said Confederate States, and the same shall be seized and disposed of as provided for in this act: Provided, however, When the estate, property, or rights to be affected by this act were or are within some State of this Confederacy which has become such since said twenty-first day of May, then this act shall operate upon, and as to such estate, property, or rights, and all persons claiming the same, from and after the day such State so became a member of this Confederacy, and not before: Provided, further, That the provisions of this act shall not extend to the stocks or other public securities of the Confederate government, or of any of the States of this Confederacy, held or owned by any alien enemy, or to any debt, obligation, or sum due from the Confederate government, or any of the States, to such alien enemy: And provided, also, That the provisions of this act shall not embrace the property of citizens or residents of either of the States of Delaware, Maryland, Kentucky, or Missouri, or of the District of Columbia, or the Territories of New Mexico, Arizona, or the Indian Territory, south of Kansas, except such of said citizens or residents as shall commit actual hostilities against the Confederate States, or aid and abet the United States in the existing war against the Confederate States.

SECTION 2. And be it further enacted, That it is, and shall be, the duty of each and every citizen of these Confederate States speedily to give information to the officers charged with the execution of this law of any and every lands, tenements and hereditaments, goods and chattels, rights and credits within this Confederacy, and every right and interest therein held, owned, possessed, or enjoyed by or for any alien enemy as aforesaid.

SECTION 3. And be it further enacted, That it shall be the duty of every attorney, agent, former partner, trustee, or other person holding or controlling any such lands, tenements, or hereditaments, goods or chattels, rights and credits, or any interest therein, of or for such alien enemy, speedily to inform the receiver, hereafter provided to be appointed, of the same, and to render an account thereof, and, so far as is practicable, to place the same in the hands of such receiver, whereupon such person shall be fully acquitted of all responsibility for property and effects so reported and turned over. And any such person wilfully
95 failing to give such information and render such account shall be guilty of a high misdemeanor, and upon indictment and conviction, shall be fined in a sum not exceeding five thousand dollars and imprisonment not longer than six months, said fine and imprisonment to be determined by the court trying the case; and shall further be liable to be sued by said Confederate States and subjected to pay double the value of said estate, property, or effects of the said alien enemy held by him or subject to his control.

SECTION 4. It shall be the duty of the several judges of this Confederacy to give this act specially in charge to the grand juries of these Confederate States, and it shall be their duty at each sitting well and truly to inquire and report all lands, tenements, and hereditaments, goods and chattels, rights and credits, and every interest therein, within the jurisdiction of said grand jury, held by or for any alien enemy, and it shall be the duty of the several receivers, appointed under this act, to take a copy of every such report, and to proceed in obtaining the possession and control of all such property and effects reported, and to institute proceedings for the sequestration thereof in the manner hereinafter provided.

SECTION 5. Be it further enacted, That each judge of this Confederacy shall, as early as practicable, appoint a receiver for each section of the State for which he holds a court, and shall require him, before entering upon the duties of his office, to give bond in such penalty as may be prescribed by the judge, with good and sufficient security, to be approved by the judge, conditioned that he will diligently and faithfully discharge the duties imposed upon him by law. And said officer shall hold his office at the pleasure of the judge of the district or section for which he is appointed, and shall be removed for incompetency, or inefficiency, or infidelity in the discharge of his trust. And should the duties of any such receiver, at any time, appear to the judge to be greater than can be efficiently performed by him, then it shall be the duty of the judge to divide the district or section into one or more other receiver's districts, according to the necessities of the case, and to appoint a receiver for each of said newly-created districts. And every such receiver shall also, before entering upon the duties of his office, make oath in writing before the judge of the district or section for which he is appointed, diligently, well, and truly to execute the duties of his office.

SECTION 6. Be it further enacted, That it shall be the duty of the several receivers aforesaid to take the possession, control, and management of all lands, tenements and hereditaments, goods and chattels, rights and credits, of each and every alien enemy within the section for which he acts. And to this end he is empowered and required, whenever necessary for accomplishing the purposes of this act, to sue for and recover the same in the name of said Confederate States, allowing in the recovery of credits such delays as may have been or may be prescribed in any State as to the collection of debts therein during the war. And the form and mode of action, whether the matter be of jurisdiction in law or equity, shall be by petition to the court, setting forth, as best as he can, the estate, property, right, or thing sought to be recovered, with the name of the person holding, exercising supervision over, in possession of, or controlling the same, as the case may be, and praying a sequestration thereof. Notice shall thereupon be forwith issued by the clerk of the court, or by the receiver, to such person, with a copy of the petition, and the same shall be served by the marshal or his deputy and returned to the courts as other mesne process in law cases; whereupon the cause shall be docketed and stand for trial in the court according to the usual course of its business, and the court or judge shall, at any time, make all orders of seizure that may seem necessary to secure the subject-matter of the suit from danger of loss, injury, destruction of waste, and may, pending the cause, make orders of sale in cases that may seem to such judge or court necessary to preserve any property sued for from perishing or waste: Provided, That in any case when the confederate judges shall find it to be consistent with the safe-keeping of the property so seques

tered to leave the same in the hands and under the control of any debtor or person in whose hands the real estate and slaves were seized, who may be in possession of the said property or credits, he shall order the same to remain in the hands and under the control of said debtor or person in whose hands the real estate and slaves were seized, requiring in every such case such security for the safe-keeping.

96 SECTION 7. Any person in the possession and control of the subject-matter of any such suit, or claiming any interest therein, may by order of the court be admitted as a defendant and be allowed to defend to the extent of the interest propounded by him; but no person shall be heard in defence until he shall file a plea, verified by affidavit and signed by him, setting forth that no alien enemy has an interest in the right which he asserts, or for which he litigates, either directly or indirectly, by trust, open or secret, and that he litigates solely for himself or for some citizen of the Confederate States whom he legally represents; and when the defence is conducted for or on account of another, in whole or in part, the plea shall set forth the name and residence of such other person, and the relation that the defendant bears to him in the litigation. If the cause involves matter which should be tried by a jury, according to the course of common law, the defendant shall be entitled to a jury trial. If it involves matter of equity jurisdiction, the court shall proceed according to its usual mode of procedure in such cases, and the several courts of this Confederacy may, from time to time, establish rules of procedure under this act, not inconsistent with the act or other laws of these Confederate States.

SECTION 8. Be it further enacted, That the clerk of the court shall, at the request of the receiver, from time to time, issue writs of garnishment, directed to one or more persons, commanding them to appear at the then sitting, or at any future term of the court, and to answer under oath what property or effects of any alien enemy he had at the service of the process, or since has had under his possession or control, belonging to or held for an alien enemy, in what sum, if any, he is or was at the time of service of the garnishment, or since has been, indebted to any alien enemy, and the court shall have power to condemn the property or effects or debts, according to the answer, and to make such rules and orders for the bringing in of third persons claiming or disclosed by the answer to have an interest in the litigation, as to it shall seem proper; but in no case shall any one be heard in respect thereto until he shall, by sworn plea, set forth substantially the matters before required of parties pleading. And the decree or judgment of the court rendered in conformity to this act shall forever protect the garnishee in respect to the matter involved. And in all cases of garnishment under this act, the receiver may test the truth of the garnishee's answer by filing a statement under oath that he believes the answer to be untrue, specifying the particulars in which he believes the garnishee has, by omission or commission, not answered truly; whereupon the court shall cause an issue to be made between the receiver and the garnishee, and judgment rendered upon the trial of other issues. And in all cases of litigation under this act the receiver may propound interrogatories to the adverse party touching any matter involved in the litigation, a copy of which shall be served on the opposite party or his attorney, and which shall be answered under oath within thirty days of such service, and upon failure so to answer, the court shall make such disposition of the cause as shall to it seem most promotive of justice, or should it deem answers to interrogatories necessary in order to secure a discovery, the court shall imprison the party in default until full answers shall be made.

SECTION 9. It shall be the duty of the district attorney of the Confederate States diligently to prosecute all causes instituted under this act, and he shall receive as a compensation therefor two per cent. on and from the fruits of all litigation instituted under this act: Provided, That no matter shall be called litigated except a defendant be admitted by the court and a proper plea be filed.

SECTION 10. And be it further enacted, That each receiver appointed under this act shall, at least every six months, and as much oftener as he may be required by the court, render a true and perfect account of all matters in his hand, or under his control under the law, and shall make and state just and perfect accounts and settlements, under oath, of his collections of moneys and disbursements under this law, stating accounts and making settlements of all matters separately, in the same way as if he were administrator of several estates of deceased persons by separate appointments. And the settlements and decrees shall be for each case or estate separately, so that the transaction in respect to each alien enemy's property may be kept recorded and preserved separately. No set-
97 tlement as above provided shall, however, be made until judgment or decree of sequestration shall have passed, but the court may at any time pending litigation require an account of matters in litigation and in the possession of the receiver, and may make such orders touching the same as shall protect the interest of the parties concerned.

SECTION 11. When the accounts of any receiver shall be filed respecting any matter which has passed sequestration, the court shall appoint a day for settlement, and notice thereof shall be published consecutively for four weeks in some newspaper near the place of holding the court, and clerk of the court shall send a copy of such newspaper to the district attorney of the Confederate States, for the court, where the matter is to be heard, and it shall be the duty of said district attorney to attend the settlement and represent the government, and see that full, true, and just settlement is made. The several settlements preceding the final one shall be interlocutory only, and may be impeached at the final settlements, which latter shall be conclusive, unless reversed or impeached within two years, for fraud.

SECTION 12. Be it further enacted, That the court having jurisdiction of the matter shall, whenever sufficient cause is shown therefor, direct the sale of any personal property, other than slaves, sequestered under this act on such terms as to it shall seem best, and such sale shall pass the title of the person as whose property the same has been sequestered.

SECTION 13. All settlements of accounts of receivers for sequestered property shall be recorded, and a copy thereof shall be forwarded by the clerk of the court to the treasurer of the Confederate States within ten days after the decree, interlocutory or final, has been passed; and all balances found against the receiver shall by him be paid over into the court subject to the order of the treasurer of the Confederate States, and upon failure of the receiver for five days to pay over the same, execution shall issue therefor, and he shall be liable to attachment by the court and to suit upon his bond. And any one embezzling any money under this act shall be liable to indictment, and on conviction shall be confined at hard labor for not less than six months nor more than five years, in the discretion of the court, and fined in double the amount embezzled.

SECTION 14. Be it further enacted, That the president of the Confederate States shall, by and with the advice and consent of congress, or of the senate, if the appointment be made under the permanent government, appoint three discreet commissioners, learned in law, who

shall hold at the seat of the government two terms each year, upon notice given, who shall sit so long as the business before them shall require, whose duty it shall be, under such rules as they may adopt, to hear and adjudge such claims as may be brought before them by any one aiding this Confederacy in the present war against the United States, who shall allege that he has been put to loss under the act of the United States, in retaliation of which this act is passed, or under any other act of the United States, or of any State thereof, authorizing the seizure, condemnation, or confiscation of the property of any citizen or resident of the Confederate States, or other persons aiding said Confederate States in the present war against the United States, and the finding of such commissioners in favor of any such claim shall be prima-facie evidence of the correctness of the demand, and whenever Congress shall pass the claim, the same shall be paid from any money in the treasury, derived from sequestration under this act: Provided, That said board of commissioners shall not continue beyond the organization of the court of claims, provided for by the constitution, to which court of claims the duties herein provided to be discharged by commissioners shall belong upon the organization of said court. The salaries of said commissioners shall be at the rate of two thousand five hundred dollars per annum, and shall be paid from the treasury of the Confederacy. And it shall be the duty of the attorney-general or his assistant to represent the interests of this government in all cases arising under this act before said board of commissioners.

SECTION 15. Be it further enacted, That all expenses incurred in proceedings under this act shall be paid from the sequestered fund, and the judges, in settling accounts with receivers, shall make to them proper allowances of compensation, taking two and a half per
98 cent. on receipts, and the same amount on expenditures, as reasonable compensation in all cases. The fees of the officers of court shall be such as are allowed by law for similar services in other cases, to be paid, however, only from the sequestered fund: Provided, That all sums realized by any receiver in one year for his services exceeding five thousand dollars shall be paid into the Confederate treasury for the use of the Confederacy.

SECTION 16. Be it further enacted, That the attorney-general shall prescribe such uniform rules of proceeding under this law, not herein otherwise provided for, as shall meet the necessities of the case.

SECTION 17. Be it further enacted, That appeals may lie from any final decision of the court under this law in the same manner and within the same time as is now, or hereafter may be by law, prescribed for appeals in other civil cases.

SECTION 18. Be it further enacted, That the word "person" in this law includes all private corporations; and in all cases when corporations become parties, and this law requires an oath to be made, it shall be made by some officer of such corporation.

SECTION 19. Be it further enacted, That the courts are vested with jurisdiction and required by this act to settle all partnerships heretofore existing between a citizen and one who is an alien enemy; to separate the interest of an alien enemy, and to sequestrate it. And shall also sever all joint rights when an alien enemy is concerned, and sequestrate the interest of said alien enemy.

SECTION 20. Be it further enacted, That in all cases of administration of any matter or thing under this act, the court having jurisdiction may make such orders touching the preservation of the property or effects under the direction or control of the receiver, not inconsistent with the

foregoing provisions, as to it shall seem proper. And the receiver may at any time ask and have the instructions of the court or judge respecting his conduct in the disposition or management of any property or effects under his control.

SECTION 21. Be it further enacted, That the treasury notes of this Confederacy shall be receivable in payment of all purchases of property or effects sold under this act.

SECTION 22. Be it further enacted, That nothing in this act shall be construed to destroy or impair the lien or other rights of any creditor, a citizen or resident of either of the Confederate States, or of any other person, a citizen or resident of any country, State, or Territory, with which this Confederacy is in friendship, and which person is not in actual hostility to this Confederacy. And any lien or debt claimed against any alien enemy, within the meaning of this act, shall be propounded and filed in the court in which the proceedings of sequestration are had, within twelve months from the institution of such proceedings for sequestration; and the court shall cause all proper parties to be made and notices to be given, and shall hear and determine the respective rights of all parties concerned: Provided, however, that no sales or payments over of money shall be delayed for or by reason of such rights or proceedings, but any money realized by the receiver, whether paid into the court or treasury, or still in the receiver's hands, shall stand in lieu of that which produced said money, and be held to answer the demands of the creditors aforesaid, in the same manner as that which produced such money was. And all claims not propounded and filed as aforesaid, within twelve months as aforesaid, shall cease to exist against the estate, property, or effects sequestered, or the proceeds thereof.

Approved August 30, 1861.

99 EXHIBIT B.

In the Confederate court, South Carolina district.

By virtue of an order to me directed by the honorable the district court of the Confederate States for the district of South Carolina, under the "sequestration act," I will expose at public outcry, at Wilbur's salesrooms, corner State and Chalmers streets, on Thursday, the 10th April, at 11 o'clock—

2,358 shares Charleston Gas Light Company.
100 shares Elmore Insurance Company.
300 shares Mount Pleasant Ferry Company.
Conditions cash.

JOHN W. CALDWELL,
Receiver.

APRIL 1st.

EXHIBIT C.

In the Confederate court, South Carolina district.

By virtue of an order to me directed by the honorable the district court of the Confederate States for the district of South Carolina, under the "sequestration act," I will expose at public auction, at the Broker's Exchange, corner State and Chalmers streets, on Tuesday, the 12th instant, at 11 o'clock—

1,408 shares Charleston Gas Light Company's stock.
Conditions cash.

(Signed) JOHN W. CALDWELL,
Receiver.

AUGUST 7TH, 1862.

And on the 9th day of May, 1870, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following replication to answer of Charleston Gas Light Co., which replication is in the words and tener following:

Replication.

UNITED STATES OF AMERICA:

Circuit, South Carolina district.

GREGORY A. PERDICARIES
100 *vs.*
THE CHARLESTON GAS LIGHT COMPANY ET AL.

The replication of Gregory A. Perdicaries to the answer of the Charleston Gas Light Company.

This repliant, saving and reserving unto himself all and all manner of exception to the manifold insufficiencies of the said answer, for replication thereto, saith that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true.

All which matters and things this repliant is now and will be ready and willing to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

101 MEMMINGER, JERVEY & PINCKNEY,
Pl'f's Att'ys.

And on the 9th day of May, 1870, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and obtained the following order pro confesso, which order is in the words and terms following:

Order pro confesso.

A subpœna ad respondendum having been returned as served more than 30 days upon B. W. Walpole and M'r's Mary A. Chafee, ex'or & ex'ix of O. J. Chafee, dec'd, and upon H. H. Williams, adm'or H. H. Williams, and no answer, plea, or demurrer having been filed by them, or any of them, it is ordered that the bill be taken pro confesso.

9th May, 1870.

DAN'L HORLBECK,
Cl'k Cir. C't.

And on the 1st day of April, 1871, came into court Bernard O'Neill, one of the defendants, by his solicitor, M. P. O'Connor, and filed the following general demurrer, which demurrer is in the words and tener following:

General demurrer.

102 UNITED STATES OF AMERICA,
District of South Carolina:

Fourth circuit. In equity.

BERNARD O'NEILL
ads.
GREGORY A. PERDICARIES.

The demurrer of Bernard O'Neill to the bill of complaint of Gregory A. Perdicaries, suing for himself and on other stockholders of the Charleston Gas Light Company.

This defendant by protestation not confessing all or any of the matters and things in the said complainant's bill contained to be true in such manner and form as the same are therein and thereby set forth, do demur thereto, and for cause of demurrer say:

That the said bill doth not contain sufficient matter of equity whereon this honorable court can ground any decree in favor of the complainant, or give the said complainant any relief against this defendant, and therefore, and for other defects and divers other causes of demurrer appearing in the said complainant's said bill, this defendant do de-
103 mur thereto and humbly demand the judgment of this honorable court whether they shall be compelled to make any answer to the said bill, and pray to be dismissed with their reasonable costs in this behalf most wrongfully sustained.

M. P. O'CONNOR,
Def'd't's Att'y.

Personally appeared before me the defendant, Bernard O'Neill, who, being duly sworn, say that the foregoing demurrer is not interposed by him for delay.

BERNARD O'NEILL.

Subscribed & sworn to before me, 29th day March, 1871.

C. O. TRUMBO,
Not. Pub.

And on the 13th day of December, 1871, came into court the Charleston Gas Light Company, by its solicitor, H. E. Young, and obtained the following order, which order is in the words and tener following:

Order.

UNITED STATES AMERICA:

PERDICARIES
vs.
THE CHARLESTON GAS LIGHT CO. ET AL.

Circuit court, South Carolina district.

104 On motion of H. E. Young, solicitor for the defendant, the Charleston Gas Light Co., it is ordered that this cause be referred to Thomas M. Hanckle, esq., as special referee, to take such testimony

as any party in the cause may offer. This order, nevertheless, not to exclude any party in interest from offering at the trial any other testimony which may be deemed material or necessary.

HUGH L. BOND, *Judge, &c.*

We assent.

CAMPBELL & SEABROOK.
SIMONTON & BARKER.
MEMMINGER, PINCKNEY & JERVEY.
WHALEY & MITCHELL, B'K NEWBERRY.

And on the 12th day of March, 1872, came into court Bernard O'Neill, one of the defendants, by his solicitor, M. P. O'Connor, and obtained the following order, which order is in the words and tener following:

Order.

GREGORY A. PERDICARIES, CITIZEN NEW JERSEY,
vs.
THE CHARLESTON GAS LIGHT CO. & OTHERS.

105 On motion of M. P. O'Connor, solicitor for Bernard O'Neill, & with the assent of complainant's solicitors, it is ordered that the order taking the bill in this cause against the said defendant O'Neill pro confesso be set aside, & that his answer filed on the 29th Feb'y, 1872, be deemed filed as of this day, 12th March, 1872.

GEO. S. BRYAN,
U. S. Judge, Dis't of So. Ca.

And on the 12th day of March, 1872, came into Bernard O'Neill, on' of the defendants, by his solicitor, M. P. O'Connor, and filed the following answer, which answer is in the words and tener following:

Answer.

UNITED STATES OF AMERICA:

Fourth circuit, South Carolina district. In equity.

The separate answer of Bernard O'Neill to the bill of complaint of Gregory A. Perdicaries.

This defendant, saving and reserving to himself all right and
106 benefit of exception to the said bill, for answer thereto, says:
That he does not admit or deny the allegation of the plaintiff in his said bill as to his having been, or being now, the owner of certain shares in the capital stock of the Charleston Gas Light Company. He has not now, nor never did have, any knowledge thereof. As to the alleged seizure and confiscation of the stock alleged to be the property of the plaintiff and of other persons named in said bill, this defendant knows nothing whatever.

Whether the president and directors of said company were ordered and compelled by a competent court, or by any court at all, to issue certificates of new stock, or to do any act beyond the limits of their official authority, is entirely unknown to this deponent.

He knows and alleges that he purchased at public auction, about the

day of April, 1862, from , broker, of Charleston, one hundred & fifty shares of the capital stock of the Charleston Gas Light Company, and paid for the same the price at which they had been knocked down to him, to wit, the sum of twenty-one $\frac{50}{100}$ dollars per share.

107 The next day the defendant, Bernard O'Neill, called at the office of the said company to procure the certificates of the said purchased stock, enquired of the transfer clerk who was the person that had sold the stock. He refused to disclose the name, and gave as the reason that the vendor had more stock to sell, and did not wish his name made known, and had so requested.

This deponent avers that he was entirely ignorant of the fact (if it be, indeed, true) that the stock sold to him by the said , broker, was sold by decree of any court, or by John A. Caldwell, acting as receiver under the authority of the Confederate States government, or of the Confederate States district court, or by the said John W. Caldwell at all; that he did not know at the sale who was the vendor of the stock, and subsequently, upon application to the company for the information, it was refused to him.

And this defendant denys that he had any notice whatsoever that there was or could be any flaw or defect in the title which the said company gave him, or that he had then or has now any reason to think

108 or suspect that the certificates of the said company then issued spurious, or was not or is not now a sufficient and proper title to the said stock. He denies that his said title is in any way defective, or is other than a good and valid contract between the said company and himself. He purchased the stock in open market. He was not required by law to inquire or ascertain the name of the vendor, but he did make the inquiry, and the information was withheld by the said company. He did receive from said company a certificate that he was entitled to a certain number of shares in the capital stock of said company, and the original of said scrip is in the hands of this defendant's solicitor, ready to be produced when required by this honorable court.

This defendant has been informed, and believes it to be true, the that said company did volunteer to give information to the agents of the so-called Confederate government of all stock owned by persons living beyond the borders of the Confederate States as the property of alien enemies, and that the said company combined with and assisted

109 the said agents to confiscate, sequestrate, and sell the said stock, and that all or a large portion of said stock was in fact offered for sale, and was sold from time to time by divers brokers in Charleston without any disclosure being made or information given of the circumstances under which such rules were made or the authority directing the same.

And this defendant further says that the said advertised for sale and sold the stock purchased by this defendant in what he had no reason to suppose was other than his usual course of business, and did in fact so suppose and believe, and do so believe at present, and it was not in fact and could not be known to this defendant (if indeed the fact be so, which he does not admit,) that the stock sold was sequestrated property, and subsequent to the purchase by this defendant and the receipt of his certificates he called at the office of the company and collected on his said shares dividends declared on the same, the same amounting to .

110 As to the allegation in the said bill that the sale of said stock was made under the constraint and duress of an order of the

district court so named by the Confederate States, this defendant is constrained to deny the said allegation, and says that he has understood, and believes it to be true, that many orders affecting the rights and intended to dispose of the property of other absent citizens of the United States, identical in form and substance with the order which is alleged in said bill to have been made and enforced upon said company, were made by the same court and attempted to be enforced upon many persons, and among others upon the Planters and Mechanics' Bank of Charleston, and that the said orders were resisted, and were not and could not be enforced and executed.

And that in particular the said Planters and Mechanics' Bank, by Daniel Ravenel, its president, refused to comply with a like order respecting a certain bill of exchange, and did not obey the said order, and thereby and by the fidelity of the said president of said bank the
111 rights and interest of an absent citizen were protected and preserved.

And this defendant further answering says that if the said company assisted in making, or consented to, or was in any way privy to an unlawful appropriation of the plaintiff's stock in his absence, or to any improper and unlawful issue of new stock, and if the plaintiff is in any way injured thereby or by an' other act of the said company, they must and ought to look for redress to the said company, and to their president and directors, their executive and responsible officers, and not to third persons, who were in fact deceived and misled by the acts of said officers.

And this defendant submits that he is entitled not only to his share in the capital stock of said company, but also to all dividends which have been declared and are due thereon since his purchase, and having fully answered he prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

M. P. O'CONNOR,
Defendant's Sol'r.

112 STATE OF SOUTH CAROLINA,
Charleston County:

Personally appeared before me Bernard O'Neill, who, being sworn, says that he has read the foregoing answer' and considered the same, and avers that they are true.

Subscribed and sworn to before me this day of February, 1872.
BERNARD O'NEILL.

And on the 12th day of March, 1872, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following replication to answer of Bernard O'Neill, which replication is in the words and tener following:

Replication.

UNITED STATES OF AMERICA:

Fifth circuit, So. C'a district. In equity.

G. A. PERDICAR'ES, A CITIZEN OF THE STATE of New Jersey,
vs.
THE CHARLESTON GAS LIGHT CO., BER-
113 nard O'Neill, & al., citizens of the State of South Carolina.

Replication to answer of Bernard O'Neill.

This repliant, saving and reserving unto himself all and all manner

of advantage of exception to the manifold insufficienc'es of the answer of the said defendant, Bernard O'Neill, for replication thereunto, saith that he will aver and prove his said bill to be true, certain & sufficient in the law to be answered unto, & that the said answer of the said defendant is uncertain, untrue & insufficient to be replied unto by this repliant; without this that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed & avoided, traversed or denied, is true; all which matters and things this repliant is now, & will be ready & willing to aver & prove as this honorable court shall direct, & humbly prays as in & by his said bill he hath already prayed.

MEMMINGER, PINCKNEY & JERVEY,
Compl't's Sol'rs.

And on the 25th day of April, 1873, came into court the com-
114 plainant G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and obtained the following order of continuance, which order is in the words and tener following:

Order.

G. A. PERDICARIES
vs.
CHARLESTON GAS LIGHT CO. AND OTHERS.

This case having been called, and the plaintiffs, together with the Charleston Gas Light Company, being present in court by their solicitors and asking for a trial, and the other defendants not appearing, by reason, it is said, of the attendance of their counsel on the supreme court of the State, at Columbia, it is ordered that the case be continued, and that the costs of such continuance be paid by the said defendants other than the Charleston Gas Light Company.

April 25, 1873.

HUGH L. BOND, *C't Judge.*

And on the 19th day of November, 1873, came into court T. M. Hanckel, special master, and filed the following report, which report is in the words and tener following:

Report.

115 UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court.

GREGORIE A. PERDICARIES
vs.
THE CHARLESTON GAS LIGHT COMPANY, AND others.

To the honorable the judges of the circuit court of the United States for the district of South Carolina:

This cause was referred to me by the following order, entered 13th December, 1871, viz:

"On motion of H. E. Young, solicitor for the defendant, The Charles-

ton Gas Light Company, it is ordered that the cause be referred to Thomas M. Hanckel, esq., as special referee, to take such testimony as any party in the cause may offer; this order, nevertheless, not to exclude any party in interest from offering at the trial any other testimony which may be deemed material or necessary."

(Signed) HUGH L. BOND,
Judge C. C.

We assent.

CAMPBELL & SEABROOK.
SIMONTON & BARKER.
MEMMINGER, PINCKNEY & JERVEY.
WHALEY & MITCHELL, BANK OF NEWBERRY.

In pursuance of the terms of this order, I have been attended by the solicitors in this cause, from time to time, and respectfully report the testimony taken by me as follows:

FRIDAY, 1*st August*, 1873.

At a reference held this day:

A printed copy of the act of assembly incorporating the Charleston Gas Light Company was submitted and verified, and is herewith filed.

The act for the sequestration of the estates, property, and effects of alien enemies, etc., enacted by the congress of the Confederate States of America, and approved August 30, 1861, was produced, and the copy filed with the answer of the Charleston Gas Light Company, admitted to be a true copy of the same.

W. J. HERIOT, a witness on behalf of the complainant, was duly sworn and testifies:

That he is now, and has been for more than twenty years, the treasurer and general clerk of the Charleston Gas Light Company. Gen. John Schnierle was president of the company from the year 1860 to some time in the year 1864, and is now dead. Witness is familiar with his handwriting. He produces a book, in which are recorded the minutes of the proceedings of the board of directors of the company, and says that the minutes, to which he will refer hereafter, are recorded in this book in the handwriting of Gen. John Schnierle, who was president of the company at the times of recording. He refers to the minutes of the proceedings of the board of directors of the 18th February, 1862. Also to those of the 11th March, 1862, and also to those of the 8th April, 1862. Copies of these minutes, verified as above stated, are herewith filed, and marked "Exhibit A."

Witness produces letter of Hon. W. D. Porter, written in reply to the resolution of the board of directors set out in the minutes of the 18th February, 1862, and proves the handwriting of Mr. Porter, which letter is herewith filed, marked "Exhibit B."

He also produces the certificate of the clerk of the Confederate
116 court, transmitted with and referred to in the letter of Hon. W. D. Porter to the board, which is herewith filed and marked "Exhibit C."

Says that the dividends accruing on the shares of stock belonging to the persons named in the certificate of the clerk last produced, as above stated, were paid to John W. Caldwell, the receiver of the Confederate States, up to the time of their sale. That the dividends accruing on the shares belonging to the complainant Perdicaries were paid to

John W. Caldwell, receiver of the Confederate States, under the judgment of the Confederate court mentioned in the minutes of the 8th of April, 1862, and embraced in the certified copy of the proceedings of that court, next produced in evidence.

A certified copy of certain proceedings of the district court of the Confederate States for the district of South Carolina, furnished by the War Department of the United States was put in evidence, and is herewith filed, marked "Exhibit D."

The commission of sequestration in the case of James Hoy, addressed to John W. Caldwell, receiver, was produced in evidence, and is herewith filed, marked "Exhibit E."

Witness says the dividends accruing on the shares belonging to James Hoy, up to the time of their sale, were paid to John W. Caldwell, the Confederate States receiver, under the order contained in said commission.

SATURDAY, 2*d August*, 1873.

At a reference held this day:

W. J. Heriot continued his testimony as follows:

He refers to page 51 of printed brief, and says that the advertisement therein set out in Exhibit B was published in the Charleston Courier from the 1st to the 10th April, 1862, and the advertisement in Exhibit C of the brief was published in the same paper from the 5th to the 12th of August, 1862. A certified copy of the order of Hon. A. G. Magrath, judge of the Confederate court, furnished by the War Department of the United States, for the sale of the shares of the gas stock belonging to certain parties therein named, was put in evidence, and is herewith filed, marked "Exhibit F."

Witness says that the persons named in that order were the owners of the number of shares placed opposite their names in the transfer-book at pages 33 and 34. The transfer-book is produced in evidence, and witness says that he is now and has been, from 1860 to this time, the transfer clerk of the Charleston Gas Light Company, and the entries made in the transfer-books produced were made by himself, and he produces a transcript of entries at pages 33, 34, and 39, and verifies it. It is herewith filed, and marked "Exhibit G."

The scrip-book of the gas company was also produced in evidence, and witness says that the certificates of stock issued, as appears by that book, were issued by himself, and that the marginal receipts contained therein were filled up by himself and were signed by the parties to whom such certificates were delivered in his presence.

Exact copies of the certificates of stock issued to Charles Weissinger, and of the receipt signed by him, were exhibited by witness, and are herewith filed, marked "Exhibit H." He says similar certificates and receipts were issued and signed in all cases of transfers of stock. Witness says that the shares sold at the sales on the 10th of April, 1862, and the 12th August, 1862, by John W. Caldwell, receiver, were all transferred to the purchasers at such sales on orders of such transfers signed by John W. Caldwell, receiver.

He produces the original orders in favor of such purchasers and proves the handwriting of John W. Caldwell.

The order in favor of Charles Weissinger is as follows:

The president of the Charleston Gas Light Company will please

issue scrip to the order of Charles Weissinger for one hundred shares of stock.

100.

(Signed) JOHN W. CALDWELL,
Receiver.

CHARLESTON, 11 *April*, 1861.

The scrip so ordered to be issued was delivered to Mr. Weissinger
117 himself, on a receipt signed by him, as appears by the scrip-book produced in evidence. Proves handwriting of Weissinger.

A similar order in favor of James Hope for 800 shares, dated 11th April, 1862, was given by the receiver. On this order there was an endorsement as follows:

Transfer the within as below to Artemus Gould, 200 shares.
Tho's Barrett, 200 "
Wilkinson & Fargo, 200 "
James Hope, 200 "

800 shares.

April 11, '62.

(Signed) JAMES HOPE.

Witness proves the handwriting of James Hope.

The new scrip, as ordered, was delivered to James Hope and the receipts signed by him as attorney of the other parties and for his own shares, as appears by the scrip-book produced in evidence.

A similar order for 122 shares, in favor of B. D. Lazarus, dated 11th April, 1862, was given by the receiver, and the new scrip, as ordered, was delivered to B. D. Lazarus, upon a receipt signed by him, as appears by the scrip-book.

A similar order for 500 shares in favor of O. J. Chafee, dated 11th April, 1862, was given by the receiver. On this order there appears the following indorsement:

Please transfer one hundred shares to A. H. Hayden, and four hundred shares to

(Signed) O. J. CHAFEE.

Witness proves handwriting of O. J. Chafee, and the new scrips were issued as ordered, were delivered to O. J. Chafee and A. H. Hayden, and the receipts signed by them, respectively, as appears by the scrip-book.

A similar order for 100 shares in favor of J. J. Cohen, dated 11th April, 1862, was given by the receiver.

On this order there appears the following indorsement:

Transfer to W. H. Wesson.

(Signed) J. J. COHEN.

Witness proves handwriting of J. J. Cohen, and the new scrip, as ordered, was issued as ordered, and delivered to J. J. Cohen, and the receipt signed by J. J. Cohen for W. H. Wesson, as appears by the scrip-book.

A similar order for 100 shares in favor of I. S. Cohen, dated 11th April, 1862, was given by the receiver, and the new scrip was issued as ordered, and delivered to I. S. Cohen, and the receipt signed by him, as appears by the scrip-book.

A similar order for 50 shares in favor of B. O'Neill, of same date, was given by the receiver, and the new scrip was issued as ordered, and delivered to B. O'Neill, upon a receipt signed by himself, as appears by the scrip-book.

A similar order for 100 shares in favor of Henry Daly, of same date, was given by the receiver, with the words "and deliver the same to his agent, M'r James Hope" added, and the new scrip was issued as ordered, and delivered to James Hope, and the receipt was signed by James Hope, attorney of Henry Daly, as appears by the scrip-book.

A similar order for 50 shares in favor of Wilbur & Son, of same date, was given by the receiver, and the new scrip was issued as ordered, and delivered to Wilbur & Son, and the receipt signed by them, as appears by the scrip-book.

A similar order for 200 shares in favor of Harris, of same date, was given by the receiver, and indorsed Isaac Harris, and the new scrip was issued as ordered, and delivered to Isaac Harris, and the receipt signed by him, as appears by the scrip-book.

A similar order for 100 shares in favor T. D. Wagner, of same date, was given by the receiver. On this order the following indorsement appears:

Issue scrip for the within in the name of Jno. Fraser & Co.
(Signed) T. D. WAGNER.

118 Witness proves handwriting of T. D. Wagner and says that Wagner was a partner in the firm of Jno. Fraser & Co.; and the new scrip was issued as ordered, and delivered to E. P. Toomer, who witness knows was a clerk of Jno. Fraser & Co., and the receipt was signed by Toomer, as appears by the scrip-book.

A similar order for 50 shares in favor of Ja's H. Taylor, of same date, was given by the receiver. On this order there appears the following indorsement:

Issue to my name.
(Signed) JAMES H. TAYLOR.
If prepared, please deliver to the bearer.

Witness proves handwriting of Ja's H. Taylor, and the new scrip was issued as ordered, and delivered to Ja's H. Taylor, and the receipt signed by him, as appears by the scrip-book.

A similar order for 86 shares in favor of M. C. Mordecai, of same date, was given by the receiver. On this order the following indorsement appears:

Be pleased to deliver to M'r C. W. Cleapor the within-named eighty-six shares of stock of your company.
April 14, 1862.
(Signed) M. C. MORDECAI.
PRESIDENT CHARLESTON GAS LIGHT CO.

Witness proves signature of M. C. Mordecai. The new scrip was issued in the name of M. C. Mordecai, and delivered to C. W. Cleapor, (who was the clerk of Mordecai,) and the receipt was signed by him, as appears by the scrip-book. All the above orders, except that in favor of Henry Daly, are indorsed by the persons in whose favor they were issued. Witness proves the various handwritings.

Witness produces the order of the Confederate court, dated July 18th, 1862, and signed "By the court, H. Y. Gray, clerk," ordering the sale of the shares in Charleston Gas Light Company standing in the name of James Hoy. Witness says the shares belonging to Hoy were sold by the receiver, Caldwell, on the 12th August, 1862, and after such sale the receiver gave an order on the president of the company to transfer these shares. He produces the order, of which the following is a copy:

CHARLESTON, 17*th August*, 1862.

The President of the Charleston Gas Light Company will please transfer to the order of B. D. Boyd, esq., fourteen hundred and eight (1408) shares in said company, the same now standing in the name of James Hoy, and sold by order of court.

(Signed) JOHN W. CALDWELL,
Receiver.

(Across the face of this order the following words are written :)

By order of Confederate court, accepted.

(Signed) J. SCHNIERLE,
President.

Witness proves the handwriting of J. Schnierle.

On the back of the same order appears the following indorsement:

Transfer the within fourteen hundred and eight shares Charleston Gas Light Company to the Bank of Newberry, South Carolina.

(Signed) B. D. BOYD.

August 30, 1862.

One certif.,	800	shares	.....	800
2 "	200	"	.....	400
1 "	208	"	.....	208
				1,408

Witness proves handwriting of B. D. Boyd. The new certificates of stock were issued, as ordered, in the name of the Bank of Newberry, South Carolina, and were delivered to B. D. Boyd, the president of that bank, who signed the receipt for them, as appears by the scrip-book.

The orders of John W. Caldwell, receiver, on the president of the Gas Light Company, for the transfer of stock and the issue of scrip, and the order of the Confederate court for the sale of the stock of James Hoy, above noted as produced in evidence, are herewith filed, and marked "Exhibit I."

Witness refers to transfer-book, and says that on March 25, 1863, Charles Weissinger, by Tho's Farr Capers, his attorney, transferred the 100 shares purchased by him at the receiver's sale to George T. Jackson, and a new scrip, in the usual form, was thereupon issued to George T. Jackson, per C. Miller, who signed the receipt for it.

119 Witness further says that, at the sale by this receiver, on the 10th April, 1862, it appears by the order in his favor, given by the receiver, already produced, (noted above as No. 10,) one Isaac Harris bought 200 shares of sequestrated stock, and he afterwards sold the same to the defendant, E. M. Beach; and it appears by the transfer-book, to which he refers, that these shares were transferred, on the 23d

April, 1863, to E. M. Beach by E. M. Beach, attorney of Isaac Harris; and the new certificate of stock, in the usual form, was delivered to E. M. Beach, and the receipt signed by him, as appears by the scrip-book, to which he refers. M'r Beach was re-elected a director of the gas company in February, 1862. He had been a director for years previous to that time, and continued a director until the annual meeting of the stockholders, on the 5th February, 1866. He always attended regularly the meetings of the board of directors, and took an active part in their proceedings. M'r Beach, as director, had full access to the transfer-book and to all the other books of the company. Stockholders were never refused access to the books of the company. By an examination of the transfer-book any one could trace the chain of transfers, and learn in whose name any stock originally stood, and who at any time had been the holders thereof.

TUESDAY, *5th August*, 1873.

At a reference held this day—

W. J. Heriot continued his testimony as follows:

Witness refers to transfer-book, and it appears by that book that the 100 shares of sequestrated stock bought by W. H. Wesson, at the first sale of the receiver, were transferred on the 2d May, 1862, by M'r W. H. Wesson, per J. J. Cohen, attorney, to William Carrington; and it appears by the scrip-book, to which he refers, that on the 3d May, 1862, the new scrip for these shares, being No. 2096, was issued to W'm Carrington in the usual form, and the receipt for it signed by him.

Witness again refers to transfer-book; that it appears by that book the 50 shares of sequestrated stock bought by Wilbur & Son, at the first sale by the receiver, were transferred on the 21st January, 1863, to William Carrington, by William Carrington, attorney of Wilbur & Son; and it appears by the scrip-book, to which he refers, that the new scrip, in the usual form, was issued to William Carrington, and the receipt for it signed by him.

Witness again refers to transfer-book, and says that it appears by that book that on the 12th February, 1863, a part of the shares of sequestrated stock, being 400 in number, purchased by B. D. Boyd for the Bank of Newberry, at the second sale by the receiver, were transferred by John S. Riggs, attorney of the Bank of Newberry, to Dewing, Thayer & Co., and the new scrip, in the usual form, was issued to them, and the receipt for it signed by them, as appears by the scrip-book.

Witness again refers to transfer-book, and says that on page 52 of that book there appears the following entry:

Date.	Ledger.	No. scrip.	Date of scrip.	From.	To.
1863.	Folio.				
Sept. 22.	281 Henry Daly.....	2084	April 12, 1862.	100	
" "	305 To People's Bank of So. Ca.....	2184	Sept. 22, 1863.		100
(Signed)		Per att'y, ROB'T THURSTON.			

Witness says he knows the handwriting of M'r Robert Thurston, and the signature in the transfer-book, at the foot of the entry on the page above referred to, as above given, is his signature.

The scrip, No. 2084, surrendered by Daly, when the above transfer was made, was destroyed in the burning of Columbia. Witness would not have made the transfer of stock, nor made the above entry in the transfer-book, unless, on the scrip surrendered, the ordinary power of

attorney always attached to the certificate of stock had been duly executed by Daly, making Robert Thurston his attorney. The 100 shares transferred by Robert Thurston, attorney of Henry Daly, on the 22d September, 1863, to the name of the People's Bank, had been transferred to Henry Daly on the 12th April, 1862, under the order of John W. Caldwell, receiver, of that date, already produced in evidence, and included in Exhibit I, as appears by entry in transfer-book, on
120 page 34. Witness refers to scrip-book, and says that the new scrip, No. 2184, for the 100 shares transferred, as before stated, to the People's Bank, was issued in the usual form, and delivered to D. L. McKay, president of that bank, on the 25th September, 1863, he giving the usual receipt in the form already put in evidence. Witness proves signature of D. L. McKay, president, to the receipt.

Witness again refers to transfer-book, and says that on the 26th April, 1862, James H. Taylor transferred the 50 shares purchased by him at the first sale of sequestrated stock, on the 10th April, 1862, and transferred to him on the 14th April, 1862, to H. H. Williams; and, referring to scrip-book, says that scrip No. 2093, for these shares, was delivered H. H. Williams, and the usual receipt for it was signed by him, and he proves the signature of H. H. Williams to the receipt. Witness says further, that during all the time when the transfers above referred to were made, he was transfer clerk of the Charleston Gas Light Company, and had been in that office for a long time anterior, and has held the same position from then up to the present time; and that he himself made all the transfers of stock, as well as all the entries in the transfer and scrip-books; that in the transfers of stock the old scrip is brought in to be surrendered before the transfer is made, sometimes by the seller, and sometimes by the purchaser of the stock.

On behalf of the complainant, there was put in evidence a certified copy of the petition of James Hoy to the Confederate court, in relation to the gas-stock standing in his name, and sequestrated, the copy of petition being furnished by the War Department of the United States, under the act of Congress; and also a copy of the petition of John W. Caldwell, receiver of sequestrated property under the Confederate government, to the Confederate court, in relation to the stock in the Gas Light Company held by alien enemies; and also the petition of G. A. Perdicaries, the complainant, to the Confederate court, praying that the stock standing in his name might not be sequestrated; and also other documents embraced in the same package of papers, these copies being furnished and certified by the War Department of the United States. They are herewith filed and are embraced in Exhibit D.

Witness further says, that after the occupation of the city of Charleston by the United States Army, on the 18th February, 1865, the property of the Charleston Gas Light Company remained in the hands of its own officers until the 26th January, 1866, at which time all the property, works, and books of the company were turned over to the agent of the United States Treasury Department, by the order of Gen. W. T. Bennett, then commanding at Charleston. The order was then served on M'r Thurston, who was at that time the president of the company. The order is produced in evidence, and is herewith filed, marked "Exhibit K."

On the 26th January, 1866, the president, M'r Thurston, sent into the commanding general a statement of the affairs and condition of the company, and reported daily to the United States authorities until he was removed.

Witness refers to the minutes of the proceedings of the board of di-

rectors on the 27th January, 1866, and proves them. A verified copy of these proceedings are herewith filed, and is included in Exhibit A. By the minute-book in evidence it appears that M'r Thurston was present on the 27th January, 1866, at the meeting of the board of directors, as president for the last time before his removal. By an order of Gen. W'm T. Bennett, dated the 9th February, 1866, M'r Thurston was removed from the office of president of the company, and Lieut. F. Guise, an officer of the United States Army, was appointed in his stead, and the latter from that time assumed the office of president, and appointed a deputy to act for him until the works and property of the company were restored to its own officers. The order of Gen. Bennett, of the 9th February, 1866, is also herewith filed, marked "Exhibit L."

FRIDAY, *8th August*, 1873.

At a reference held this day—

W. J. Heriot continued his testimony as follows:

He produces the official copy of the report of United States Commissioner Edward N. Dickerson, which is a part of the records of the gas company. Witness is the proper custodian of the records
121 of the company. This record has been in his custody. It was handed him by M'r Thurston. M'r Thurston is now dead. Does not know how it came into the hands of M'r Thurston. M'r Dickerson came to the office of the company and took possession of the books for examination. The books were delivered to him by witness. M'r Dickerson came to the office on the day M'r Thurston handed witness the report, and was closeted with M'r Thurston, and upon his leaving, M'r Thurston handed the report to witness. The report is indorsed in the handwriting of M'r Thurston.

N. B. M'r Barker objects to the introduction of the report in evidence. It was admitted in evidence, subject to the objection, and is herewith filed, marked "Exhibit M."

Witness refers to minute-book containing proceedings of the board of directors on the 9th March, 1866, and verifies the copy produced. It is herewith filed and included in Exhibit A.

Witness refers to transfer-book, at page 60, and verifies the copy of the entry there made, which he produces and is herewith filed and included in Exhibit G.

He says that on page 59 the transfer immediately preceding the above entry is dated the 30th January, 1866, and the transfer immediately subsequent, at page 61, is dated the 24th March, 1866.

A certified copy of a letter and order of Hon. H. McCulloch, Secretary of the Treasury, dated 7th April, 1866, and addressed to T. C. Callicott, Supervising Special Agent United States Treasury Department, instructing the latter to restore the gas-works to the company, was produced in evidence, and is herewith filed, marked "Exhibit N."

Jacob Williman, a witness on behalf of complainant, was here sworn, and says he knows the handwriting of T. C. Callicott, and that the certificate attached to the letter of Hon. H. McCulloch, already produced in evidence, is signed by him, and that the order of the restoration of the gas-works, now produced in evidence and shown to him, is also signed by T. C. Callicott. The order is herewith filed, marked "Exhibit O."

The witness W. J. Heriot then resumed his testimony, as follows:

He refers to minute-book containing the proceedings of the annual meeting of the stockholders of the Gas Company, held on the 14th May,

1866, and verifies the copy produced. It is herewith filed and included in Exhibit A.

Witness says that from the 9th of February, 1866, when M'r Thurston was removed, Lieut. Guise continued to act as president until the works were restored, on the 8th May, 1866. M'r Dickerson came to the office of the company to make his examination after M'r Thurston was removed and when Lieut. Guise was acting as president.

WEDNESDAY, 13*th August*, 1873.

At a reference held this day,

W. J. Heriot continued his testimony as follows:

Witness says that the first-mortgage bonds delivered by the Gas Company to Duncan Sherman & Co., referred to in the communication of Hon. H. McCulloch, Secretary of the Treasury, of 7th April, 1866, already produced in evidence, have all been paid and the mortgage satisfied.

A certified copy of the accounts of John W. Caldwell, receiver, with the Confederate court, furnished by the United States War Department, was produced in evidence, and is herewith filed, marked "Exhibit P."

Witness refers to minute-book containing proceedings of the board of directors, and verifies the extract from the annual report of the president and directors of the Gas Company to the stockholders, at an adjourned meeting held 14th May, 1866, which he produces. It is herewith filed, marked "Exhibit Q."

A deed executed by the Charleston Gas Light Company to Duncan, Sherman & Co., in trust, for certain purposes therein set forth, was produced in evidence and its execution proved by witness, and is herewith filed, marked "Exhibit R."

Witness says that since 1859 there never has been any action of the company increasing its capital stock in the manner provided by the act of incorporation.

122 WEDNESDAY, 14*th August*, 1873.

At a reference held this day,

W. J. Heriot continued his testimony as follows:

Witness has made careful search for special order No. 31, mentioned in Dickerson's report, and it cannot be found among the papers or records of the Gas Company.

Cross-examined by M'r B. J. Whaley, of the firm of Campbells & Whaley, successors of Campbell & Seabrook:

Witness was elected transfer clerk in 1859. Gen. Schnierle was president in 1860, and continued in that office until 1864. Witness was not elected from year to year, but has continued in office without further election. The president was elected annually. Witness cannot say by reference to the minute-book who were the directors of the Charleston Gas Light Company in 1860. The minute-book for 1860 was burned in Columbia.

Referring, by consent of all parties, to Miller's Almanac for the years 1859, 1860, and 1861, and refreshing his memory in this way, witness says the directors for these years respectively were as follows:

In 1859—John Schnierle, president; directors, Henry Gourdin, J. F. Blacklock, A. J. White, E. M. Beach, Charles Kerrison, C. G. Memminger, W. C. Bee, G. A. Perdecaries.

In 1860, the president and directors were the same as those in 1859.

In 1861, the president and directors were also the same as those in

1859 and 1860, except that James Rose was elected a director in the place of Charles Kerrison.

M'r Robert Thurston was elected president in 1864. B. P. Brunner never qualified or acted as president, and James S. Gibbes acted as president pro tem. in his place.

In 1865 there was no quorum at the annual meeting of the stockholders.

In 1866 the same officers and directors as those in 1861 were elected, except that B. D. Lazarus was elected in the place of E. M. Beach.

Witness says that public notice was given in the newspapers of the meeting of the stockholders on the 14th May, 1866. The usual notice of ten days was given the newspapers of the regular meeting of the stockholders in February, 1856, and for four days' notice, in the same manner, of the adjourned meeting in May, that being the usual notice for an adjourned meeting. From the annual meeting on the 5th February, 1866, no entry of any meeting of the board of directors appears on minute-book until the 9th March, 1866.

Witness was present at the meeting of the stockholders on 14th May, 1866. The complainant was not present at that meeting. Does not know that he was represented at all at that meeting. Perdicaries was living at the North at that time. The by-laws do not require residence in South Carolina as a qualification. To be a director a person must have twenty-five shares standing in his own name.

There are 30,664 shares in the capital stock of the Charleston Gas Light Company. Witness refers to the stock-ledger, and says that from December, 1850, to December, 1864, a large majority of these shares were held by citizens of South Carolina. About 4,651 shares were held by citizens of other States, and the balance of 26,013 shares were held in this State. The proportion between the shares held in this State and those held elsewhere has not materially varied from the proportion in 1864.

Witness says that at every annual meeting of the stockholders of the company it is usual for the president to make an annual report. In the annual report of the president at the meeting of the stockholders in February, 1863, there was no mention made of the proceedings as to sequestrated stock. He does not know that there was any mention made of these proceedings in any other annual report of the president. The matter of the sequestrated stock never came before the board of directors on any other occasions than those mentioned in the minute-book. M'r Caldwell, the receiver, came to see the president as to the holders of sequestrated stock. Never heard Gen. Schnierle make any remark as to sequestrated stock and the proceedings relating to that stock. Never heard Gen. Schnierle discuss the subject at all. The president,
123 General Schnierle, simply instructed witness to credit shares of alien enemies according to a list furnished to confederate court.

On page 34 of transfer-book there appears the entries, a verified copy of which witness produces, and is included in Exhibit G.

FRIDAY, 15*th August*, 1873.

At a reference held this day,

W. J. Heriot, upon his cross-examination by M'r B. J. Whaley, continued his testimony as follows:

Witness knows that on one occasion there was no election of directors at the annual meeting of the stockholders of the Charleston Gas Light Company, and the old directors held over. M'r Caldwell, the receiver,

had an interview with President Schnierle, and, after the interview, Gen. Schnierle directed witness to make out a list of northern stockholders, and witness made out and gave such a list to him. Witness kept the book from which such list was made. At the time of making out the list he did not hear Gen. Schnierle, or any one of the board of directors, speak on the subject of sequestrated stock. Witness knew that Caldwell was the receiver of sequestrated stock, and from that circumstance inferred that his interview with the president related to that matter. Caldwell had no access to the stock-ledger containing the list of stockholders.

It is the usage of the company to require the surrender of the old certificate, upon the transfer of stock, and, under ordinary circumstances, it is a usage never departed from. When the new certificates were issued for the sequestrated stock the old certificates were not surrendered. The *a* new certificates were issued on the order of the receiver, which were first submitted to the president and then handed to the witness. No new certificates were ever issued to the Confederate government, or court, or to the receiver. The stock standing in the names of alien enemies was simply transferred to the name of the Confederate court, by an entry on the transfer-book. In the stock-ledger these shares were credited to the Confederate court at page 58. Witness verifies a copy of the entry at that page, which is herewith filed as Exhibit S. These entries in transfer-book and stock-ledger were made by the direction of President Schnierle. Witness asked the president whether he should make the entries in the way there made, and he said he wished them made in that way. President Schnierle said nothing more on the subject at that time, except that witness was to make the transfer when the order of the receiver came in. M'r Caldwell, the receiver, did not bring the order in person, but they were brought by other persons. Witness saw no other authority for the transfer except the orders of Caldwell, which he filed away, as he would have done with the old certificates if they had been surrendered. Witness does not know how Caldwell got the information as to the stock held by alien enemies. The books of the company were not given to him for examination, nor to any other person seeking information. Never heard Gen. Schnierle, or any member of the board of directors, express any opinion as to the matter of sequestrated stock, and has never heard any of them say how the information as to this stock was obtained by the Confederate authorities.

President Schnierle instructed witness not to make any transfer of the stock of northern stockholders. These instructions as to the transfer of stock held by northern stockholders were given to the witness about the time of the resolutions of the board of directors of the 11th June, 1861. Witness knows of no usage of the company as to the access of stockholders to its books. No one has ever asked for such access, except on one occasion, since the war, and in that case it was allowed. No purchaser of the sequestrated stock at any time asked to be allowed to examine the books of the company.

There were a number of sales of gas-stock previous to, about the time of, and subsequent to the sales by Receiver Caldwell. Referring to transfer-book, witness says there were thirteen transfers of stock other than those sold by receiver, between the 10th April, 1862, and the 7th August, 1862; and during the whole war there were the ordinary transfers of stock when ordered or applied for.

124 Cross-examined by M'r Barker:

The Gas Company began to pay the dividends on the seques-

trated stock to those who had purchased it from after the 8th May, 1862, and so continued to pay them as long as the stock stood in the names of the first purchasers of such stock, or of their transferees. Witness verifies the copy of the proceedings of the board of directors on the 6th May, 1862, taken from the minute-book, herewith filed and included in Exhibit A. The dividend-book of the Gas Company produced and proved to be authentic. Shows Henry Daly's receipt, at page 293, for dividends on 190 shares of gas-stock standing in his name.

Cross-examined by M'r B. J. Whaley:

On the 20th of February, 1863, Dewing, Thayer & Co., it appears by the transfer-book, bought 400 shares of gas-stock from John R. Dukes, and these shares were not included in the sequestration.

There were produced in evidence the certificates of stock purchased by Dewing, Thayer & Co., John Fraser & Co., The People's Bank, William Carrington, and E. M. Beach, involved in this suit, and it was agreed that these certificates may be referred to and used at the hearing of the cause.

Witness refers to minute-book, and verifies copy of the minutes of the board of directors on 10th October, 1866, produced and herewith filed, included in Exhibit A.

Cross-examined by M'r Young:

M'r Caldwell called to see President Schnierle, as to the sequestrated stock, about the time the sale of these by him, as receiver, took place. Does not know of his own knowledge whether this was before or after the order of the Confederate court sequestrating the stock. As far as witness knows, it was Caldwell who always called to see Gen. Schnierle on the subject of the sequestrated stock; does not know of Gen. Schnierle's ever having called to see M'r Caldwell on that subject.

A certified copy furnished by the War Department of the United States of the petition of John W. Caldwell, receiver, to the Confederate court for the sequestration of the gas-stock standing in the name of Martha Steever, and the proceedings thereunder, and also of the report of John W. Caldwell, receiver, to the Confederate court, of the sales of gas-stock made by him on the 11th April, 1862, (certified to be in his handwriting, but without signature,) was put in evidence and is herewith filed, marked "Exhibit T."

A certified copy of the petition of James Hoy to the Confederate court praying that the gas-stock standing in his name might not be sequestrated, (furnished by the War Department of the United States,) was put in evidence and is herewith filed, marked "Exhibit V."

It is admitted that M'r Wilkinson, of the law-firm of Memminger, Jervey & Wilkinson, made an earnest effort at the hearing of the petitions of Perdicaries and James Hoy to the Confederate court to prevent the sequestration of the stock standing in their names; that in these cases the constitutionality of the act of sequestration was denied by M'r Wilkinson, and the question strenuously argued by him; and that the Confederate court sustained the sequestration of these stocks, and confirmed the constitutionality of the act of sequestration.

FRIDAY, *24th October*, 1873.

At a reference held this day,

W. J. Heriot, being recalled by the complainant, continued his testimony as follows:

Witness says that in the Charleston Courier of the 11th April, 1862, there appears the following paragraph:

"John W. Caldwell, receiver for the Confederate court, sold 2,358 shares of Charleston Gas Light Co. stock, par $25, for $21½ to $22."

That in the Charleston Courier of the 13th August, 1862, there appears the following paragraph:

"Gas-stock. Some fourteen hundred shares of the Gas Light Co., of our city, were sold yesterday, at auction, under the sequestration act, by John W. Caldwell, receiver, at $25.75; par value is $25 per share."

Witness says that whenever there is a sale of gas-stock he always tries to get from the person making the transfer the price at which
125 the stock was sold. Generally the information is given, and he notes the price so obtained in pencil on the margin of the transfer-book, where the transfer is recorded.

In January, 1862, being the date of the transfer nearest before the sale of sequestrated stock, the price of which is noted, on the 10th April, 1862, according to the pencil note of witness, gas stock sold for $25 per share. In January, 1862, there were two sales of stock at this price. In February of that year there was one sale of eleven shares, and in March one sale of fifty shares, of none of which is the price noted. After the 10th April, 1862, the nearest sale was on the 12th April, 1862; no price noted. On the 26th April of that year there was a sale of fifty shares; no price noted. On the 29th April of the same year there was a sale of forty-seven shares, at $25 per share, according to pencil note of witness. On the 24th May, 1862, there were sold 635 shares, at $25.37 per share, according to pencil note of witness. On the 28th May, 1862, there were sold sixty shares; price not noted. On the 25th August, 1862, there were sold 120 shares, at $26 per share, according to pencil note of witness.

Cross-examined by B. J. Whaley:

When William Carrington had the shares of gas stock transferred to him by Wessen on the transfer book on the 2d May, 1862, witness knew that the stock so transferred to Carrington was sequestrated stock. He knew the same of the stock transferred to Carrington by Wilbur & Son on the 21st day of January, 1863.

When the 200 shares of stock purchased by E. M. Beach from Harris was transferred to him on the 23d April, 1863, witness knew that the stock so transferred was sequestrated stock. He knew the same of the stock purchased by Dewing, Thayer & Co. from the Bank of Newberry, and transferred to them on the 12th February, 1863. He knew the same of the sequestrated stock transferred to John Fraser & Co., and also of the sequestrated stock transferred to the People's Bank by Daly.

William Thayer, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Witness was a teller in the Bank of Charleston at the beginning of and during the war. About December, 1861, Confederate money began to be current, and soon displaced all other currency. Between December, 1861, and June, 1862, it had gradually displaced all other currency. In September, 1861, representatives of all the bank' of Charleston met and passed a resolution that they would only make collections in currency, in which term Confederate treasury-notes were included. After December, 1861, all business transactions were understood as being made with reference to Confederate treasury-notes. These notes were in such circulation about the middle of December, 1861, that the Planters' and Mechanics' Bank paid these notes to the Bank of Charleston for balance due by the former bank to the latter.

Thomas Frost, a witness on the part of the complainant, having been duly sworn, says: That in September, 1861, he was a teller in the Union Bank, in Charleston, and that the paper produced is a true copy of the minutes of the meeting of representatives from all the banks in the city, on the 6th September, 1861, referred to by M'r Thayer in his testimony. The paper is herewith filed, marked "Exhibit W."

By agreement of all parties, the act of the general assembly of South Carolina, declaring the value of Confederate treasury-notes at the times specified in that act, was accepted as determining their value at such times. By that act it appears that the value of Confederate treasury-notes was as follows: On the 1st April, 1862, one dollar of lawful money was equal to one dollar and seventy-three cents Confederate States notes. On the 1st August, 1862, one dollar of lawful money was equal to one dollar and ninety cents Confederate States notes. Complainant produced in evidence a certified copy, furnished by the War Department of the United States, of the return of John Schnierle, president of the Charleston Gas Light Company, under the sequestration act, of the property of alien enemies in his possession, taken from the records of the Confederate court for South Carolina. It is herewith filed, marked "Exhibit X."

Complainant here closed.

126 MONDAY, 10*th November*, 1873.

At a reference held this day—

William Carrington, one of the defendants, having been duly sworn, testified as follows:

Witness produces certificate of stock No. 2096, for 100 shares of Charleston gas-light stock, dated 2d May, 1862, and another certificate, No. 2124, for 50 shares of the same stock, dated 21st January, 1863, and says he bought the 100 shares embraced in certificate 2096 through Conner & Co., brokers in Charleston. Witness asked the firm to purchase for him 100 shares gas stock. They did so. He paid them the purchase-money and received from them scrip No. 2096, which is in the usual form. He had no knowledge of the previous owner of this stock. If he had had such knowledge, he never would have purchased it. (Objected to by M'r Young; taken subject to objection.) Witness transacted the business of this purchase with M'r M. Mathiessen, who was in the office of Conner & Co. in some capacity. Witness bought the 50 shares embraced in No. 2124 from Wilbur & Son, brokers in Charleston, without any knowledge as to its being sequestrated stock. He is now the owner of 200 shares of gas stock, purchased by Carrington & Co. (of which firm witness is a member) about the same time and at about the same price as the parcels of stock previously mentioned. He never heard of any objection as to the validity of the two certificates of stock first produced until after the war. He was unable to tell to which of the certificates of stock held by him the objection as to the validity referred until he went to the gas office after the war, and the two certificates of stock produced were, much to his surprise, specified as the stock referred to.

Cross-examined by M'r Young:

Witness instructed Conner & Co. to purchase 100 shares of gas stock for him. Conner & Co. acted in this matter as his broker. He has no recollection of the price he paid for this stock, but is sure he paid the full market-value. He has no recollection of the price he paid for the 50 shares purchased from Wilbur & Son. The scrip for the 50 shares

was brought by M'r W. M. Wilbur, of that firm, to the store of witness and offered to him for sale. Witness has no recollection of the price paid for the 200 shares gas stock to which no objection is made, nor any accurate knowledge of the date of that purchase. Witness probably paid for the stock purchased by checks on some bank, which were paid in the money current at the time. No notice to disclose the property of alien enemies in his possession was ever served upon him. Witness had heard, as a matter of public notoriety, that the property of alien enemies was being sequestrated.

(Objected to by M'r B. J. Whaley; taken subject to objection.)

Witness did not instruct Conner & Co. not to purchase sequestrated stock, because he never knew that any gas stock had been sequestrated. For the same reason he never made any enquiries as to the character of the stock offered to him for sale by Wilbur & Son.

By the original writ produced in evidence, it appears that the defendant, Carrington, commenced his action on the case in the court of common pleas for Charleston County on the 27th May, 1869, against the Charleston Gas Light Company for damages for the refusal by the company to acknowledge the validity of the certificates of gas stock held by him and involved in the present cause, and to pay dividends on the same; and by the pleadings produced it also appears that the suit so commenced is now at issue. The whole pleadings are put in evidence, with liberty to either party to use them at the hearing of the present cause.

Murdoch Matheson, a witness on behalf of the defendant, Carrington, having been duly sworn, testified as follows:

Witness was a member of the firm of Conner & Co. in the year 1862. He has no recollection of ever having purchased for any one any sequestrated stock, knowing it to be sequestrated. He would not have purchased such stock for any one, knowing it to be sequestrated, without giving notice of the fact to the party for whom he purchased.

Cross-examined by M'r Young:

H. W. Conner, jun'r, was a member of the firm of Conner & Co.
127 in 1862. M'r Conner was at that time absent in the army. Both he and witness were Confederates in politics; no question about that. In 1862 witness would not have thought sequestrated stock a proper thing to purchase for any one under an order to purchase gas stock. He held notes of northerners for collection at the time the sequestration act was passed, and when information was sought from him on the subject he refused to give any, feeling morally bound not to make any such disclosures, and declared that he would not obey any order of the court to do so.

The feelings of our people in 1861 were less bitter than they became afterwards. He knew, as a matter of general notoriety, that the property of northerners was being sequestrated in 1862. He never made any enquiries when he purchased gas stock for Carrington whether it was sequestrated stock.

The following statement, in writing, furnished by Edward McCrady, esq., it was agreed by all parties should be considered as his sworn evidence in the cause, while objected to by M'r Young as irrelevant:

I was *was* solicitor of the Planters' and Mechanics' Bank, So. C'a, when the late civil war commenced, and during all the time of its continu-

ance. The said bank was called upon, on behalf of the Confederate States, by one, or at the instance of one, of the receivers, to give an account of and to account as to the property of alien enemies in their hands, and especially as to the stockholders in the said bank who were alien enemies. I advised the bank to give no such account, and not to take upon themselves the responsibility of any return to such a demand, but to offer to the receivers access to their books of stockholders and depositors, and let them judge for themselves, and take their own proceedings in reference to such as they considered alien enemies; which advice was followed by the said bank, and but one suit was actually brought against the bank, and that was by one of the receivers, John Y. Stock, by a petition entitled Confederate States vs. The Property of William B. Bristol, alien enemy. To this petition I put in an answer for the bank, denying the right claimed, and resisting the prayer. His honor Judge Magrath decided against me, and I therefore filed my petition of appeal under the sequestration act, which expressly allowed an appeal to the supreme court. This petition was allowed, and as the security required in cases of appeal was given or tendered, the appeal was then, as it would be now under the acts of Congress, a supersedeas until the appeal could be heard. As there never was a supreme court constituted in the Confederate States, this appeal was an effectual and final settlement of the case against the corporation, and no other suit was ever brought against the said bank.

I advised every one who applied to me to answer writs of garnishment (any many did apply to me) to pursue the same course as that I had advised the Planters' and Mechanics' Bank to pursue, and none of them, with my consent, ever paid any money into the Confederate receivers' hands.

There never was a supreme court in the Confederate States, although the acts of congress contemplated such a court. I know that the Hon. W. D. Porter was, during that time, as he is now, a prominent and able member of the Charleston bar, and was then the president of the senate of this State.

Respectfully submitted.

THO'S M. HANCKEL,
Special Referee.

12 NOVEMBER, 1873.

128 EXHIBIT A.

OFFICE OF CHARLESTON GAS LIGHT COMPANY,
Charleston, February 18, 1862.

Pursuant to call of the president, a special meeting of the board was held this day, at 12 m.

Present, J. Schnierle, president; Mess'rs James Rose, W. C. Bee, E. M. Beach, A. J. White, H. Gourdin, J. S. Gibbes, directors.

The president stated that the special object of this meeting was to submit to the board as information and for their action the orders of the Confederate court of South Carolina district, directed to J. W. Caldwell, esq., receiver, under said court, for the delivery of gas stock and dividends in this company, in the name of parties sequestered, as set forth in said orders or commissions of sequestration, as alien enemies, viz: Martha Steever, C. B. Dungan, W'm Hopper, John P. Murta, Theophilus Code, and W. S. Faitoute, named in first order or commission, dated 12th February, 1862; and Frederick Brown, E. H. Dungan, Hugh Elliot, trustee, B. Kreischer and nephew, named in second order or commission, dated 12th February, 1862.

The president stated, as further information to the board, that—

Martha Steever, of Philadelphia, Penn.,	has	81	shares	&	$162	dividend.
C. B. Dungan,	"	"	" 5	"	10	"
W. Hopper,	"	"	" 31	"	63	"
John P. Murta,	"	"	" 24	"	48	"
Theophilus Code,	"	"	" 125	"	250	"
W. S. Faitoute, of Newark, New Jersey,			" 132	"	264	"
Frederick Brown, Philadelphia, Penn.,			" 500	"	1,000	"
E. H. Dungan,	"	"	" 9	"	18	"
Hugh Elliott, trustee,	"	"	" 62	"	124	"
B. Kreischer and nephew, New York,			" 35	"	70	"
Total			1,004		$2,008	

That the hearing of the following cases had been postponed by the said court, viz:

Moses M. Broadwell,	S't Louis, Mo.,	100	shares,	$200	dividend.
James Hoy,	Trenton, N. J.,	1,408	"	2,816	"
G. D. Humphrey,	S't Louis Mo.,	250	"	500	"
G. A. Perdicaries,	Trenton, N. J.,	1,354	"	2,708	"
Lucius H. Terry,	S't Louis, Mo.,	150	"	300	"
Total		3,262		$6,524	
Making and aggregate of sequestered and postponed of		4,266	shares,	$8,532	dividend.

Whereupon, it was

Resolved, That the president be directed to consult W. D. Porter, esq., attorney at law, for instructions to act on said order of the court to the receiver, J. W. Caldwell, in relation to the stock and dividends in this company held by parties named in commission of sequestration, as set forth in those orders of court.

Adjourned.

J. SCHNIERLE, *President.*

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, March 11, 1862.

At a regular meeting of the board held this day, at 12 m.,

Present, J. Schnierle, president; Mess'rs E. M. Beach, J. S. Gibbs, Henry Gourdin, directors,

The president submitted the reply of W. D. Porter, esq., to the resolution of the board adopted February 18, 1862, viz:

129 To JOHN SCHNIERLE, Esq.,
President Charleston Gas Light Company:

DEAR SIR: We beg leave to offer the following reply to the resolution of the board, which you lately placed in our hands:

We assume that the sequestration acts of congress are constitutional and valid. That is our opinion, and their legality has been affirmed by the Confederate court for the district of South Carolina, upon full argument.

We send a certificate which shows that verdicts of "alien enemy" have been rendered and judgments entered against the several parties therein named. The sequestration acts require that the receiver shall take possession, control, and management of all property and effects

of each and every alien enemy, and empower him to sue and recover the same in the name of the Confederate States. The commission to sequestrate and take possession in these cases is according to the rules and in the form prescribed by the court of this district. In relation to the dividends which have been declared and set apart, we are of opinion the gas company is bound to pay them over to the receiver, unless it has some claim or lien upon them. In relation to a transfer of the stock on the books of the company, we think you should await a special order of the court. In the mean time no transfer should be made to any other person or persons, as the property is vested in the Confederate States and a matter of form only is wanting. The receiver will of course give a receipt for what is paid him.

Very respectfully, your ob't servants,
(Signed) BROWN & PORTER.

27TH FEBRUARY, 1862.

CONFEDERATE COURT,
South Carolina.

I certify that a verdict and judgment of alien enemies have been rendered in this court against the following parties:

Martha Steever, C. B. Dungan, W. Hopper, Jno. P. Murta, Theophilus Code, W. S. Faitoute, Fred'k Brown, E. H. Dungan, Hugh Elliott, trustee, B. Kreischer and nephew.

Witness my hand and seal of the court 26th Feb'y, 1862.
[L. S.] (Signed) H. Y. GRAY, *Clerk.*

Whereupon it was

Resolved, That the president conform to the instructions as set forth above, and pay over and transfer under the direction of the attorney, W. D. Porter, esq.

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, April 8, 1862.

At a regular meeting held this day, 8 p. m.

Present, John Schnierle, president; Mess'rs E. M. Beach, W. C. Bee, J. S. Gibbs, directors.

The president informed the board that a commission of sequestration, directed to John W. Caldwell, esq., receiver, by the Confederate States court of America for South Carolina, had been issued on the 17th day of March, 1862, to sequester the property of G. A. Perdicaries, and that the receiver had notified the company of the same, and in reference to the 1,354 shares and $2,708.00 of dividends therein held in the name of G. A. Perdicaries on our books.

The president was requested to conform to the instructions of attorney, W. D. Porter, esq., as recorded, and to comply with the order of the Confederate court.

Adjourned.
(Signed) JOHN SCHNIERLE,
President.

130 OFFICE CHARLESTON GAS LIGHT COMPANY,
May 6, 1862.

At a regular meeting of the board called this day.

Present, J. Schnierle, president; W. C. Bee, J. S. Gibbes, James Rose, Henry Gourdin, E. M. Beach, directors.

The president called the attention of the board to the action of the banks and other corporations, who had already very generally anticipated the coming July dividends by paying to the several stockholders at this time the sums then accruing, and suggested the expediency of the Charleston Gas Light Company adopting the same course. Whereupon it was

Resolved, That in view of the exigency of the times, and to aid the stockholders of the company as far as practicable, the payment of the next July dividend be at this time anticipated, and that a dividend be declared of one dollar per share, (being at the rate of four per cent. for the six months ending 1st July, 1862, and that the usual publication be made, that the same will be made that the same will be paid to stockholders on and after Thursday, 8th May, inst.

Resolved, That the president pay the war-tax upon the stock of the company as early as will save the five per cent. for advance payment.

OFFICE CHARLESTON GAS LIGHT COMPANY,
January 27, 1866.

An extra meeting of the board of directors was called this day.

President stated that he had called the board together to submit the following communication which he had received from Gen'l W. T. Bennett, and to know what action should he take in the premises:

CHARLESTON, S. C., *January* 26, 1866.

The gas-works of the city of Charleston, captured by the United States forces at the occupation of the city on the 18th February, 1865, are hereby turned over to the agent of the Treasury Department.

The president of the company will report the expenditures and receipts of the works since the occupation of the city.

By order of Brevet Brig. Gen'l W. T. Bennett.

GEORGE BURGER,
Cap't 54th N. Y. V. V., A. A. A. G.

On motion, it was resolved that the communication of Gen'l Bennett be referred to the president and solicitor of the company, to adopt such measures as they may deem expedient in the premises.

No other business Adjourned.

(Signed) ROBERT THURSTON,
President.

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, March 9, 1866.

At a meeting of the directors of this company this day held were present,

Robert Thurston, president; Henry Gourdin, A. J. White, W. C. Bee, directors.

The president laid before the board for its consideration the report of E. N. Dickerson, esq., appointed U. S. commissioner to investigate and report upon the status of the stock in this company which had been sequestered in March, 1862, to the amount of 3,766 shares, and to indemnify which owners the seizure of the works had been made as per order of Brig. Gen'l Bennett, dated 26th January, 1866; he asked, also, the attention of the board to the indorsement made upon said report by Gen'l Sickles, to the effect that his report to the honorable Secretary of the Treasury for the restoration of the works to the com-

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pany would depend upon the company, through their board of directors, complying with the terms contained in said report. In order to meet which conditions the following preamble and resolutions were moved and adopted:

Whereas at meetings of the directors of this company on the 11th day of March and the 8th of April, 1862, the then president of this company was instructed to transfer, under a compulsory order of the so-called Confederate court of South Carolina, 3,766 shares of the capital stock of this company, then owned by and standing in the name of the following-named stockholders, to wit:

James Hoy	1,408	shares.
G. A. Perdicaris	1,354	"
Fred'k Brown	500	"
W. S. Frutonte	132	"
Theophilus Code	125	"
Martha Steever	81	"
Hugh Elliott	62	"
B. Kreischer and nephew	35	"
W. Hopper	31	"
John P. Murta	24	"
E. H. Dungan	9	"
C. B. Dungan	5	"
	3,766	shares,

to persons who derived no title from the owners of said stock.

Whereas, in accordance with those instructions, and under the compulsion of the so-called Confederate court, such stock was transferred from the account of said stockholders without their authority or consent, and in violation of their right, and certificates were issued and dividends then due such stockholders paid to persons designated by the so-called Confederate court; and whereas the compulsion imposed by the so-called Confederate court is now removed, and this company is now able to restore the lawful stockholders to these rights: Therefore, be it

Resolved, That the said transfer of stock, being declared without lawful authority, does not convey any right or title to those claiming it under the seizure of the so-called Confederate court.

Resolved, That said stock be now transferred on the books of said company to the accounts of the above-named stockholders, so as to restore to each one the number of shares held by him at the time of the said compulsory transfer, and the stock accounts of the holders of the said stock, under the order of the so-called Confederate court, be now balanced.

Resolved, That the holders of the stock under the Confederate court, being declared not lawful stockholders of this company, the certificates held by them are invalid.

Resolved, That the above-named stockholders are entitled to receive from this company the value of the dividends earned by it, and paid over to the holders of the certificates issued under the order of the Confederate court or paid to its receiver, and that the present value is $4 per share, and that the owners shall be paid out of the first available resources of this company, with legal interest from this day until paid.

Resolved, That twenty thousand dollars of the first-mortgage bonds

of this company, heretofore ordered and to be issued, secured by a mortgage of the gas-works, be delivered to Duncan Sherman & Co., of New York, as trustees for the above-named stockholders, to secure them the payment of the said sum of four dollars per share, with interest, within one year from this date, and with authority to deliver to such stockholders or their assigns so many of said bonds at par as may pay them the sum of $4 per share on the stock held by them, (if they should prefer to accept bonds in payment,) and to sell so many of such bonds as may be necessary to pay the said sum of $4 per share and interest at the end of one year from this date, if in the mean time the said sum has not been paid by this company or by acceptance of the bonds in payment, and with the proceeds of said sale to pay the sum of four dollars per share, with interest, to each of the said stockholders.

No other business. Adjourned.

(Signed) ROBERT THURSTON,
President.

132 CHARLESTON, *May 14th*, 1866.

The adjourned meeting of the stockholders of the Charleston Gas Light Company was held this day, at the hall of the Insurance and Trust Company, No. 8 Broad street, at 12 m.

The president submitted his report, with accompanying reports from the treasurer and engineer. M'r F. Richards now moved that the reports be accepted. M'r G. N. Ingraham now offered an amendment, that this meeting accept the reports; and believing that the board had adopted the only practicable course left, under the compulsion of the military, especially endorsed their action in the matter of the sequestrated stock, which action is fully set forth in the action of 9th March, 1866.

The resolution, as amended, was unanimously passed.

No further business. Adjourned.

W. J. HERIOT, *Secretary.*
(Signed) I. S. K. BENNETT, *Chairman.*

CHARLESTON, *May* 14, 1866.

The adjourned meeting of the stockholders of the Charleston Gas Light Company was held this day, at the hall of the Insurance and Trust Company, No. 8 Broad street, at 12 m.

On motion of A. J. White, I. S. K. Bennett was called to the chair, and W. J. Heriot appointed to act as secretary.

The minutes of the meeting of February 5, 1866, were read and confirmed.

The chairman stated that the object of the meeting was to receive the annual report of the president and directors for the year 1865. On presenting his report, the president prefaced by stating to the stockholders that the meeting of the 5th February had adjourned to meet on the 1st Monday in March, but that the board had postponed the said meeting until such time as the works should be restored, which restoration had not been perfected until the 8th instant. His report was then submitted, with accompanying reports from the treasurer and engineer. After reading of the first two, on motion, was resolved, the reading of the engineer's report be dispensed with. M'r F. Richards now moved that the reports be accepted. M'r Geo. H. Ingraham offered as amendment that this meeting accept the reports, and believing that the board have adopted the only practicable course left them

under the compulsion of the military, especially endorse their action in the matter of the sequestrated stock, which action is fully set forth in their minutes of 9th March, 1866. This resolution, as amended, was unanimously passed.

No further business. Adjourned.

(Signed) I. S. K. BENNETT, *Chairman.*
W. J. HERIOT, *Secretary.*

CHARLESTON, *October* 10, 1866.

At a meeting of the board of directors this day, held at the office of Mess'rs W. C. Bee & Co.

Present, Robert Thurston, president; W. C. Bee, Henry Gourdin, A. J. White, B. D. Lazarus, directors.

The president stated to the board he had received the following letter from the company's solicitor, respectfully invited their action.

CHARLESTON, 10*th October*, 1866.

ROBERT THURSTON, Esq.,
President Gas Company:

DEAR SIR: We enclose the letter of Mess'rs Memminger & Jervey, solicitors of M'r G. A. Perdicaries, now that the suit has been begun. It seems to us that the case presents the question involved as fairly as any other, and it would be an injury to the company to open the door to the multiplicity of suits which now would surely follow the with-
133 drawal of the present bill. We therefore recommend that the company give security for the costs required, and are

Very respectfully, your ob't servants,

(Signed) PORTER & CONNER.
(Signed) H. E. YOUNG, *Sol'r Gas Co.*

The letter alluded to is as follows:

CHARLESTON, 2*d October*, 1866.

PERDICARIES
vs.
CHARLESTON GAS LIGHT COMPANY ET AL.

H. E. YOUNG, Esq.:

DEAR SIR: In reference to the order requiring security for costs in this case, could any arrangement be made which would dispense with the necessity of our writing to plaintiff? In the absence of our M'r Memminger, who is the personal friend of the plaintiff, we would be at a loss to whom to apply and would be obliged to write for instructions, for which we have scarcely time, and would be glad to be favored with an immediate answer.

Very respectfully,
(Signed) MEMMINGER & JERVEY.

After a full expression of opinion on the part of the gentlemen present, it was

Resolved, That the president is hereby instructed to assume, in the name of the company, security required from the plaintiff for costs in case of Perdicaries vs. Charleston Gas Light Company, in the district court of the United States, or to make any other arrangement in behalf of the company which will effect the object had in view.

EXHIBIT B.

To Gen. JOHN SCHNIERLE,
President Charleston Gas Company:

DEAR SIR: We beg leave to offer the following reply to the resolution of the board which you lately placed in our hands:

We assume that the sequestration acts of Congress are constitutional and valid. That is our opinion; and their legality has been affirmed by the Confederate court for the district of South Carolina upon full argument.

We send a certificate, which shows that verdicts of "alien enemy" have been rendered and judgments entered against the several parties therein named. The sequestration acts require that the receiver shall take possession, control, and management of all property and effects of each and every alien enemy, and empowers him to sue for and recover the same in the name of the Confederate States. The commission to sequestrate and take possession in these cases is according to the rules and in the form prescribed by the court of this district.

In relation to the dividends which have been declared and set apart, we are of opinion that the gas company is bound to pay them over to the receiver, unless it has some claim or lien upon them. In relation to a transfer of the stock on the books of the company, we think you should await a special order of the court. In the mean time no transfer should be made to any other person or persons, as the property is vested in the Confederate States, and a matter of form only is wanting. The receiver will, of course, give a receipt for what is paid him.

Very respectfully, your ob't serv'ts,

BROWN & PORTER.

27TH JANUARY, 1862.

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EXHIBIT C.

CONFEDERATE COURT, *South Carolina.*

I certify that a verdict and judgment of alien enemies has been rendered in this court agains' the following parties:

Martha Steever, W'm Hopper, Theophilus Code, Fred'k Brown, Hugh Elliott, trustee, C. B. Dungan, John P. Murta, and W. S. Faitonite, E. H. Dungan, B. Kriescher and Nephew.

Witness my hand and the seal of said court, 26th Feb'y, '62.

[L. S.] H. Y. GRAY, *Clerk.*

EXHIBIT D.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, August 31st, 1872.

It appears from the records of this office that the annexed papers are true copies of the original papers captured by the forces of the United States and now in the custody of this Department.

E. D. TOWNSEND,
Adjutant-General.

Be it known, that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant-General of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of

the United States of America to be hereunto affixed on this day of , one thousand eight hundred and .

[L. S.] W'M W. BELKNAP,
Secretary of War.

CONFEDERATE STATES OF AMERICA,
South Carolina District:

In the district court.

Petition for sequestration.

To the Hon. A. G. MAGRATH,
Confederate Judge for the District aforesaid:

The petition of John W. Caldwell, receiver of sequestrated estates, duly appointed by the judge aforesaid, who sues in the name and behalf of the Confederate States of America, respectfully sheweth:

First. That open and public war exists between the United States of America and the said Confederate States of America, by virtue of an act of the congress of the said Confederate States, entitled "An act recognizing the existence of war between the United States and the Confederate States, and concerning letters of marque, prizes and prize goods," approved on the 6th day of May, A. D. 1861.

Second. That by virtue of the act of the congress of the said Confederate States, entitled "An act for the sequestration of the estates, property, and effects of alien enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States," approved on the 30th day of August, A. D. 1861, all and every the lands, tenements and hereditaments, goods and chattels, rights and credits, within these Confederate States, and every right and interest therein held, owned, possessed, or enjoyed, by or for any alien enemy, since the twenty-first day of May, 1861, except such debts due to an alien enemy as may have been paid into the treasury of one of the Confederate States prior to the passage of said act, are sequestrated by the Confederate States of America, to be held for the indemnity of certain citizens of the said Confederate States and others, according to the provisions of the act of congress aforesaid.

135 Third. That there are within the limits of these Confederate States, to wit, in the city of Charleston, in the district aforesaid, and within the jurisdiction of this court, certain lands, tenements and hereditaments, goods and chattels, rights and credits, held, owned, possessed, and enjoyed by or for certain alien enemies, to wit, G. A. Perdicaries, a citizen of the United States, and residing and having a domicil within the said United States, to wit, in the city of Trenton, in the State of New Jersey. That the estates, property, and effects, so situate, consist, as your petitioner has been informed, of certain goods and chattels, rights and credits of the said alien enemy, and particularly of several (to wit, one thousand three hundred and fifty-four) shares of the capital stock of the Charleston Gas Light Company, a body politic and corporate of the State of South Carolina, in the city of Charleston, whereof John Schnierle is president; and, also, of the arrears of dividends thereon. That the said John Schnierle is the agent and attorney, and person holding, exercising supervision over, in possession of, or controlling the interests, property, and effects, rights and credits of the alien enemy aforesaid; and that the estate, effects, property, and interests of the alien enemies aforesaid are, when ascertained, liable to be sequestrated by virtue of the act of congress aforesaid.

Wherefore your petitioner, in the name and behalf of the said Confederate States, prays that process in due form of law, according to the course of this honorable court in cases of this nature, may issue against the said Charleston Gas Light Company, and all other persons holding, exercising supervision over, in possession of, or controlling all and singular the lands and tenements, goods, chattels, rights, and credits, or any interest therein, of the alien enemies aforesaid, that he and they may be required upon oath to answer, set forth, and discover whether the said G. A. Perdicaries are not alien enemies of the Confederate States, and whether the property and effects hereinbefore specified, or any interest therein, are held or controlled by them, or either of them, for the alien enemies aforesaid, or any or either of them, or for any other alien enemies; and whether they, or any or either of them, have any custody, possession, or control of any other lands, tenements, hereditaments, goods, chattels, rights, and credits of the alien enemies aforesaid, or any or either of them; and whether they, or any or either of them, have any claim or lien on any of the property and effects aforesaid.

And that your petitioners may be entitled to writs of garnishment, to be issued out of and under the seal of this honorable court, and directed to such other persons as may have in their possession, custody, or control any other property and effects of the alien enemies aforesaid, or any or either of them. And that the said property and effects of the alien enemies aforesaid, and all other property belonging to the said alien enemies, or in which they may have an interest, which shall be discovered and be brought within the jurisdiction of this court, may be sequestrated, according to the provisions of the act of congress aforesaid, for the uses and purposes in the same specified; and that your petitioner may have such other and further order, decree, direction, and relief in the premises as the nature of the case may require and to your honor may seem meet.

And your petitioner will ever pray, &c.

(Signed) C. R. MILES,
C. S. Dist. Att'y, pro tem.

JOHN W. CALDWELL, *Receiver.*

I did, by my deputy, W. C. Waterbury, serve the within defendant personally with a true copy of the annexed petition for sequestration, with a proper notice thereon endorsed.

Service proved.

(Signed) D. H. HAMILTON,
Marshal C S., District S. C.

We find G. A. Perdicaries to be an alien enemy, and the property mentioned in the petition to be his.

(Signed) JOHN A. BLUM, *Foreman.*

17TH MARCH, 1862.

136 In the confederate court, South Carolina district.

THE CONFEDERATE STATES OF AMERICA
vs.
JOHN SCHNIERLE, ESQ., PRESIDENT CHARLESTON GAS LIGHT CO.

Return to writ of garnishment.

SEPTEMBER 27, 1862.

Pursuant to the above writ, and in reply to the 1st interrogatory

therein printed and propounded to the deponent, he, answering, says: That the follwoing stockholders of this company reside, as far as your deponent is informed, in the several cities of the United States hereinafter set forth, but cannot pretend to determine whether they are or are not alien enemies. He says, further, that the shares held by the said persons are set against their names respectively and taken from the books of the company at this date, and with the dividends due thereon, (but unpaid,) exhibit their whole interest in the Charleston Gas Light Company.

Stockholders.	Residence.	Shares.	Dividends due.
Brown, Fred'k	Philadelphia, P'a	500	$500 00
Broadwell, Moses M	S't Louis, Mo	100	100 00
Code, Theophilus	Philadelphia, P'a	125	125 00
Dungan, C. B	" "	5	5 00
Dungan, E. H	" "	9	9 00
Elliott, Hugh, trustee	" "	62	62 00
Faitoute, W. S	Newark, N. J	132	132 00
Hoy, James	Trenton, N. J., or Fifth Avenue Hotel, N. Y.	1,408	1,408 00
Hopper, W'm	Philadelphia, P'a	31	31 00
Humphrey, G. D	S't Louis, Mo	250	250 00
Kreischer, B., and nephew	New York	35	35 00
Murta, John P	Philadelphia, P'a	24	24 00
Perdicaries, G. A	Trenton, N. J	1,354	1,354 00
Steever, Martha	Philadelphia, P'a	81	81 00
Terry, Lucius H	S't Louis, Mo	150	150 00
		4,266	$4,266 00

In the case of the above G. A. Perdicaries, this deponent submits the accompanying documents as part of this return, viz:

A. Copy of letter and power of attorney of G. A. Perdicaries, dated June 4, '61, Richmond, V'a, to J. Schnierle, president Charleston Gas Light Company, received June 7, 1861. Original in possession of John Schnierle.

B. Copy of letter of J. Schnierle, president Charleston Gas Light Company, dated 11th June, 1861, Charleston, S. C., to G. A. Perdicaries, Trenton, N. J. Original sent by mail.

C. Copy of letter of G. A. Perdicaries, dated Trenton, N. J., June 13, 1861, to J. Schnierle, president Charleston Gas Light Company, enclosing 27 scrips of gas-stock, 1,354 shares.

Received by J. S., July 3d, 1861.

Original letter and the scrips in possession of J. Schnierle, president Charleston Gas Light Company.

137 D. Copy of letter of J. Schnierle, president Charleston Gas Light Company, dated July 10, 1861, Charleston, S. C., to Hon. C. G. Memminger, at Richmond, V'a, communicating to him copy of J. Schnierle's letter of June 11, 1861, to G. A. Perdicaries, viz, B, in reply to A. Also, copy of letter of G. A. Perdicaries to J. Schnierle, dated June 13, 1861, enclosing 27 scrips of gas-stock, amounting to 1,354 shares, viz, C. Also, acknowledgment of J. Schnierle's having power of attorney and scrips. Also, copy of resolution of board of directors, June 11, 1861.

Original sent by mail.

The scrips or certificates of stock are numbered as follows:
Nos. 1474, 1475, 1476, 1477, 1485, 1489, 1490, 1491, 1493, 1494, each for 40 shares, and each endorsed on the back thus:

I hereby transfer the stock in this certificate to Tom H. Perdicaries, of Greece.

G. A. PERDICARIES.

Nos. 1505, 1492, 1495, 1496, 1500, 1499, 1498, 1497, each for 40 shares, and each endorsed on the back as above.
Nos. 1481, 1479, 1483, 1487, 1478, 1482, each for 40 shares, and each endorsed thus:

TRENTON, N. J., *June* 13, 1861.

I hereby transfer the stock contained in this certificate to Tom H. Perdicaries, of the kingdom of Greece.

G. A. PERDICARIES.

Nos. 1881 for 381 shares, 1587 for 10 shares, and 1952 for 3 shares, and each endorsed on the back as the above and of same date. This deponent further states that there are 80 shares and $80 of dividend, in the name of Geo. Wood, now in Liverpool, Eng., and whose dividends have heretofore been collected, by order, to M'r Phineas Pearce, from G. Wood. Of Wood's residence or citizenship, this deponent cannot say of his own knowledge.

To the 2d interrogatory, this deponent has, as above, already answered, and says further that he has not disposed of any part thereof, or the proceeds therefrom accruing.

To the 3d interrogatory, this deponent says that the only indebtedness is in the amount, $8.02, to Merrick & Sons, of Philadelphia, P'a, but this we dispute as a company, contending it was the premium on exchange we had long ago remitted, and as such was a proper discount against their bill against the company, paid February, 1861.

To the 4th interrogatory, this deponent cannot answer, for want of knowledge thereon.

To the 5th interrogatory, this deponent does not know of anything else.

(Signed) J. SCHNIERLE,
President Charleston Gas Light Co.

Sworn to before me this 7th Oct., 1861.
(Signed) JOHN W. CALDWELL,
Not'y Pub.

(Copy A.)

Know all men by these presents that I, Gregory A. Perdicaries, have constituted and appointed, and by these presents do constitute and appoint, Gen. J. Schnierle, of Charleston, in the State of South Carolina, my true and lawful attorney, for me and in my name, to transfer unto Tom H. Perdicaries, of the kingdom of Greece, all the shares of the capital stock of the Charleston Gas Light Company now standing in my name in the books of the said company, hereby ratifying and confirming all that my said attorney may do therein by virtue of these presents.

In witness whereof I have hereunto signed my name and affixed my seal this 4th day of June, 1861.

(Signed) G. A. PERDICARIES. [L. S.]

Witness:

(Signed) C. G. MEMMINGER.

P. S.—The name of my son is not John, but Tom H. P.

138 (Copy A.)

RICHMOND, VA., *June 4th*, 1861.

MY DEAR SIR: On the other side of this you have my power of attorney authorizing you to transfer to my son, Tom H. Perdicaries, all my stock in your company. On my return home, I will send you at as early a day as practicable the old scrips, and the new ones, when made, should remain with you, subject to the order of my son, to whom the stock is now transferred. By making a transfer of the stock at as early a day as you may deem proper, you will greatly oblige,

Very truly yours,

(Signed) G. A. PERDICARIES.

To GEN. J. SCHNIERLE,
President Charleston Gas Co.

(Copy B.)

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, June 11, 1861.

To G. A. PERDICARIES,
Trenton, N. J.:

DEAR SIR: Your letter and power of attorney, dated 4th June, 1861, has been received by me, on the 7th instant, and I am informed by the acting district attorney that it is neither legal or competent for me to accept your power of attorney to transfer your stock in this company as therein requested, your State (New Jersey) being at war with the Confederate States.

You are aware, also, that no transfer can be made on our books until the old scrips are first produced at this office, so as to cancel them on the issue of the new.

Under these circumstances I cannot either accept your power of attorney or transfer your stock.

I have the honor to be yours, very respectfully,

(Signed) J. SCHNIERLE,
President.

(Copy C.)

TRENTON, N. J., *June 13th*, 1861.

To GEN. J. SCHNIERLE,
President of the Charleston Gas Light Company:

MY DEAR SIR: Having already furnished you with power of attorney for the transfer of my stock in the Charleston Gas Light Company to Tom H. Perdicaries, of Greece, I now return you all the scrip, in order that the desired transfer may be in accordance with the rules of the company.

With great respect, very truly your ob'd't servant,

(Signed) G. A. PERDICARIES.

P. S.—Be so good as to acknowledge receipt of power of attorney and scrip to Col. C. G. Memminger, Richmond, Va.

(Signed) G. A. PERDICARIES.

24	scrips,	each	of	40	shares.
1	"	"	"	381	"
1	"	"	"	10	"
1	"	"	"	3	"
27					

(Copy D.)

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, S. C., July 10, 1861.

To HON. C. G. MEMMINGER,
Richmond, Va.:

MY DEAR SIR: On the 7th June, ult., I received the letter and power of attorney, (in same sheet,) dated 4th June, inst., by M'r G. A. Perdicaries. As your signature is witness to the power to transfer his
139 stock to his son, I need not place the copies before you, presuming you are fully apprized of their contents, being present at Richmond, Va.

On the 11th June I replied as follows:

(Copy.)

OFFICE CHARLESTON GAS LIGHT COMPANY,
Charleston, June 11th, 1861.

To G. A. PERDICARIES, ESQ., *Trenton, N. J.:*

DEAR SIR: Your letter and power of attorney, dated 4th June, 1861, has been received by me, on the 7th inst., and I am informed by the acting district attorney that it is neither legal or competent for me to accept your power of attorney to transfer your stock in this company, as therein requested, your State (New Jersey) being at war with the Confederate States.

You are aware, also, that no transfer can be made on our books until the old scrips are first produced at this office, so as to cancel them on the issue of the new.

Under these circumstances, I cannot either accept your power of attorney or transfer your stock.

I have the honor to be, yours, very respectfully,
(Signed) J. SCHNIERLE, *President.*

I received no reply to this letter.

On the 3d of July, 1861, I received the following:

(Copy.)

TRENTON, N. J., *June 13th,* 1861.

To GEN. JOHN SCHNIERLE,
President Charleston Gas Light Company:

MY DEAR SIR: Having already furnished you with power of attorney for the transfer of my stock in the Charleston Gas Light Company to Tom H. Perdicaries, of Greece, I now return you all the scrip, in order that the desired transfer may be in accordance with the rules of the company.

With great respect, very truly, your obed't serv't.
(Signed) G. A. PERDICARIES.

P. S.—Be so good as to acknowledge receipt of power of attorney and scrip to Col. C. G. Memminger, Richmond, Va.

(Signed) G. A. PERDICARIES.

24	scrips,	each	of	40	shares.
1	"	"	"	381	"
1	"	"	"	10	"
1	"	"	"	3	"

Pursuant to the above P. S., I herewith acknowledge the receipt of power of attorney and scrip, as enumerated, on the 11th June, 1861, p. m. The following resolution of the board of directors in Charleston was adopted and served on the officers of the company, viz:

Resolved, No transfers of gas-stock held by stockholders of the States belligerent to the Confederate States shall be made, or sales recognized, or money transmitted, without first reporting to the president, who will submit the proposal to the board of directors; and no officer of the company shall act as agent or attorney for such stockholders.

"By order of directors.

(Signed) "J. SCHNIERLE, *President.*"

MEM.—Notice to officers as above, July 12th, 1861.

With my best wishes for your success, I am yours, truly.

J. SCHNIERLE, *President.*

(Copy.)

140 CONFEDERATE STATES OF AMERICA,
South Carolina District:

To the Hon. A. G. Magrath, judge of the Confederate States of America for the district aforesaid:

The petition of Tom H. Perdicaries, a citizen of the kingdom of Greece, respectfully sheweth: That on the 4th day of June, 1861, G. A. Perdicaries executed in due form a power of attorney, constituting John Schnierle his lawful attorney, for him and in his name to transfer to Tom H. Perdicaries, your petitioner, thirteen hundred and fifty-four shares standing in his name on the books of the Charleston Gas Light Company; that the said power was delivered to the said John Schnierle, but was never executed by him. The said stock still stands in the name of the said G. A. Perdicaries, the corporation having refused to allow the transfer, for reasons as set forth in the special return of John Schnierle, president of the Charleston Gas-Light Company, and proceedings are now pending before this honorable court for the sequestration of the said stock, and the dividends that have accrued thereon, on the grounds that the said G. A. Perdicaries is an alien enemy, he being a resident of the State of New Jersey.

Your petitioner would further shew unto your honor that he is ready when the opportunity is afforded him to prove his nationality, having been born in Athens, a subject of the king of Greece; that the original power of attorney for this transfer, as also the scrip for the said stock, can be produced to this court, as they are in the possession of the said John Schnierle.

Your petitioner would therefore pray your honor, upon proof of the premises, to order the said power to be executed, or direct that the said thirteen hundred and fifty-four shares be transferred and the divi-

dends now due thereon paid to your petitioner. And, as in duty bound, your petitioner will ever pray, &c.

(Signed) MEMMINGER, JERVEY & WILKINSON, *Pro Pet.*

EXHIBIT E.

Confederate States of America, South Carolina district.

To JOHN W. CALDWELL, Esq., *Receiver:*

Whereas certain proceedings have been had in the district court of the Confederate States for the district of South Carolina, sitting as a court of sequestration, under the act of the Confederate congress, entitled "An act for the sequestration of the estate, property, and effects of alien enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States," in which it was propounded to the said court that within its jurisdiction certain property, to wit, fourteen hundred and eight shares in the capital stock of the Charleston Gas Light Company, and under the control of John Schnierle, president, as also the dividends due thereon, was the property of James Hoy, an alien enemy of the Confederate States of America, and subject to sequestration under the provisions of the said act; and upon due consideration of the matters then propounded, the said court did adjudge and decree the said property hereinbefore described to be the property of the said Hoy, an alien enemy; and under the authority of the said act of the Confederate congress did further adjudge and decree that the said property should be sequestered:

Now, know ye that, in confidence of your prudence and fidelity, full power and authority are given you to enter upon the necessary lands, tenements, and real estate whatever of the said Hoy, and to collect, receive, and sequester into your hands, for the Confederate States of America, not only all the rents and net profits of the messuages, lands, tenements, and real estate, but also the goods, chattels, and personal estates whatsoever of the said Hoy.

And therefore you are commanded to go and enter upon all the
141 messuages, lands, tenements, and real estate of the said Hoy, and collect, take, and get into your hands, not only all the rents and net profits of the said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same, pursuant to the provisions of the aforesaid act of the congress of the Confederate States, and to the said court you will make correct return of what you may do in the premises.

Witness the Hon. A. G. Magrath, judge of the district court of the Confederate States for the district of South Carolina, this 18th day of July, A. D. 1862.

[L. S.]

H. Y. GRAY,
Clk Conf. Ct.

EXHIBIT F.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, Dec. 26, 1871.

It appears from the records of this office that the annexed papers are true copies of, and extracts from, the records of the Confederate court, South Carolina district, now in the possession of this Department.

E. D. TOWNSEND,
Adjutant-General.

Be it known that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant-General of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of the United States of America to be hereunto affixed on this day of , one thousand eight hundred and .

W'M W. BELKNAP,
Secretary of War.

(Copy.)

Memorandum property furnished by the Charleston vigilance committee to M rs. J. Y. Stock and J. W. Caldwe W ceivers for uestration.

* * * * * * * * *

Perdicaries and Hoy, $100,000 worth gas-stock.

* * * * * * * * *

M'r Dungan's interest in the Gas Company.

* * * * * * * * *

Confederate States vs. The property of E. H. Dungan. Same vs. C. B. Dungan. Same vs. Hugh Elliott, trustee. Same vs. W. L. Faitoute. Same vs. B. Kreischer and Nephew. Same vs. W. Hopper. Same vs. Fred. Brown. Same vs. Theophilus Code. Same vs. J. P. Murta. Same vs. Martha Steever. Same vs. G. A. Perdicaries.

The jury having found the above-named and the property mentioned in the petition, consisting of stock in the Charleston Gas Company, to be theirs, on motion of the district attorney, it is ordered that John W. Caldwell, one of the receivers of this court, have leave to sell at public auction, for cash, the shares of the capital stock of the Charleston Gas Company standing in the names of the above-named parties, respectively.

And it is further ordered that the president of the said company do issue new certificates to the purchasers of said stock, and that the receiver do report the said sale or sales to the court.

(Signed) A. G. MAGRATH.

MARCH 29TH, 1862.

142 In the district court of the Confederate States, South Carolina district.

THE CONFEDERATE STATES OF AMERICA
vs.
WILLIAM HOPPER, AN ALIEN ENEMY.

And whereas, upon the hearing of the petition in the aforesaid cause, and all other papers to the same relating, together with the evidence produced before the jurors, to whom, by the order of the court, the same were submitted, they, the said jurors, that is to say, W. B. Smith, foreman, and eleven others, being first duly sworn, did, in open court, find, by their verdict then and there given, that the property mentioned in the said petition is, and has been since the 21st day of May, A. D. 1861, the property of an alien enemy: Therefore, it is now by the said court ordered, that the said property be sequestered for the use of the Confederate States of America, according to the act of the Congress of the Con-

federate States of America, No. 269, approved the 30th day of August, A. D. 1861.

And that the mandate of this court forthwith issue to the receiver to take the possession, control, and management of the said property for the use of the Confederate States of America.

Judgment signed 24th January, 1862.

H. Y. GRAY, *Clerk.*

(Copy.)

To the Hon. A. G. MAGRATH,
Judge of Confederate Court, S. C.:

Report of John W. Caldwell, receiver for Charleston district, of the several matters in his office which have passed sequestration.

* * * * * * * * *

1862.		
March 25th.	Martha Steever, div'd on gas-stock	$162 00
"	John P. Murta, " "	48 00
March 25th.	Theophilus Code, dividend on gas-stock.....	250 00
"	Fred. Brown, " "	1,000 00
"	W. S. Faitoute, " "	264 00
"	W'm Hopper, " "	62 00
"	C. B. Dungan, " "	10 00
"	E. H. Dungan, " "	18 00
"	H. Elliott, trustee, " "	124 00
"	B. Kreischer & nephew, " "	70 00
*	* * * * * * * *	*
April 15th.	G. A. Perdicaries, sale of gas-stock	$29,173 28
"	Martha Steever " "	1,739 85
"	J. P. Murta, " "	512 72
"	Theophilus Code, " "	2,685 50
"	Fred. Brown, " "	10,771 00
"	W. S. Faitoute, " "	2,835 94
"	W'm Hopper, " "	662 40
"	C. B. Dungan, " "	106 42
"	E. H. Dungan, " "	191 96
"	Hugh Elliott, trustee, " "	1,332 50
"	B. Kreischer & nep'w, " "	747 94
*	* * * * * * * *	*
May 12.	G. A. Perdicaries, div'd on gas-stock.....	2,708 00
*	* * * * * * * *	*

Respectfully submitted.
(Signed) JOHN W. CALDWELL,
Receiver.

CHARLESTON, 1*st July*, 1862.

143 CONFEDERATE STATES OF AMERICA,
South Carolina District:

In sequestration.

2D RECEIVER'S OFFICE.

To the Hon. A. G. MAGRATH, *Judge of the C. S., &c.:*

I beg leave respectfully to hand herewith statement of receipts and expenditures in this office to date.

Charleston, 31st March, '62.

M'ch	1.	To balance			$10,174 14
"	1.	" Est. A. Avery, rec' for rent			354 13
"	25.	" Martha Steever, dividends on	gas-stock		162 00
		" Jno. P. Murta,	do.		48 00
		" Theophilus Code,	do.		250 00
		" Fred' Brown,	do.		1,000 00
		" W. L. Faitoute,	do.		264 00
		" W'm Hopper,	do.		62 00
		" C. B. Dungan,	do.		10 00
		" E. H. Dungan,	do.		18 00
		" Hugh Elliott, trustee,	do.		124 00
		" B. Kriescher and nephew,	do.		70 00
		" Jones & Hannaberg, 1 mos. rent room			7 00
					$12,543 27
		To balance			$9,732 86

To the Hon. A. G. MAGRATH, *Judge Confederate Court, &c.:*

I beg leave to hand herewith statement of receipts and expenditures in 2d receiver's office, for month of April, 1862.

1862.					
April	1.	To balance			$9,732 86
*	*	*	*	*	*
April	15.	To G. A. Perdicaries, auction sales	gas-stock		29,173 28
		" Martha Steever,	do.		1,739 85
		" J. P. Murta,	do.		512 72
		" Theophilus Code,	do.		2,685 50
		" Fred'k Brown,	do.		10,771 00
		" W. S. Faitoute,	do.		2,835 94
		" W'm Hopper,	do.		662 40
		" C. B. Dungan,	do.		106 42
		" E. H. Dungan,	do.		191 96
		" Hugh Elliott, trustee,	do.		1,332 50
		" B. Kreischer and nephew,	do.		747 94

* * * * * * *

Charleston, 30th April 1862.

CONFEDERATE STATES OF AMERICA:

To the Hon. A. G. MAGRATH, *Judge of Confederate Court, &c.:*

I beg leave to report the following receipts and expenditures for the last month, viz:

* * * * * * *

May 12. G. A. Perdicaries, back dividends $2,708 00

* * * * * * *

All of which is respectfully submitted.
(Signed) JOHN W. CALDWELL,
Receiver.

144 To the Hon. A. G. MAGRATH,
Judge of the Confederate Court, &c.:

In accordance with your order, dated Columbia, 28th May, 1862, I beg leave to make the following report:
(Signed) JOHN W. CALDWELL,
Receiver.

1862.

* * * * * * *

July 1.	By E. H. Dungan	$209 96
	" Hugh Elliott, trustee	1,456 50
	" B. Kreis'her and nephew	817 94
	" C. B. Dungan	116 42
	" W'm Hopper	724 40
	" W. S. Faitoute	3,099 94
	" Fred. Brown	11,771 00
	" Theophilus Code	2,935 50
	" J. P. Murta	560 72
	" Martha Steever	1,901 85
	" G. A. Perdicaries	31,881 28

* * * * * * *

(Copy.)

To the Hon. A. G. MAGRATH,
Judge of the Confederate Court, &c.:

In accordance with your order, dated Columbia, 28th May, 1862, I beg leave to make the following report.

JOHN W. CALDWELL,
Receiver.

1862.

* * * * * * *

July 1st.	E. H. Dungan	$209 96
	Hugh Elliott, trustee	1,456 50
	B. Kreischer and nephew	817 94
	C. B. Dungan	116 42
	W'm Hopper	724 40
July 1st.	W. S. Faitoute	3,099 94
	Fred. Brown	11,771 00
	Theophilus Code	2,735 50
	J. P. Murta	360 72
	Martha Steever	1,901 85
	G. A. Perdicaries	31,881 28

* * * * * * *

(Copy.)

CONFEDERATE STATES OF AMERICA,
South Carolina District:
July term, 1862.

To the Hon. A. G. MAGRATH,
Confederate Judge for the District aforesaid:

I beg leave respectfully to report to your honor, that in pursuance of the 11th section of the act of Congress, No. 269, and of the order of this

court, I have attended the settlement of John W. Caldwell, one of the receivers of this court, of the several matters in his office, which have passed sequestration, and in which the accounts of the said receiver have been filed, at Columbia, according to the order and notice published in pursuance of the said act, and that I have no exceptions to the said accounts to report to this honorable court.

(Signed) CH'S RICHARDSON MILES,
C. S. District Attorney pro tem.

145 EXHIBIT G.

Transfer-book, pages 33 and 34 and 39.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. ro m-	To-
1862.						
April 11	58	Sundries D'r to Confederate court:				
	53	E. H. Dungan			9	
	52	C. B. Dungan			5	
	58	Hugh Elliott, trustee			62	
	194	B. Kreischer and nephew			35	
	262	W'm Hopper			31	
	63	W. S. Faitoute			132	
	21	Frederick Brown			500	
	41	Theophilus P. Code			125	
	189	J. B. Murta			24	
	142	Martha Steever			81	
	190	G. A. Perdicaries			1,354	2,358
1862.						
April 11	58	Confederate court D'r to sundries:				
	264	Charles Weissenger	2073	Apr. 11, 1862		100
	277	Artemus Gould	2074	do.		200
	278	Thomas Barrett	2075	do.		200
	278	Wilkinson & Fargo	2076	do.		200
	279	James Hope	2077	do.		200
	99	B. D. Lazarus	2078	do.		122
	279	A. H. Hayden	2079	do.		100
	28	O. J. Chafee	2080	do.		400
	280	W. H. Wesson	2081	do.		100
	42	I. S. Cohen	2082	do.		100
	280	B. O'Neill	2083	do.		50
						1,772
1862.						
April 12	58	Confederate court D'r to sundries:				
	281	Henry Daly	2084	Apr. 12, 1862		100
	281	Wilbur & Son	2085	do.		50
	83	Isaac Harris	2086	do.		200
						350
1862.						
April 14	58	Confederate court D'r to sundries:				
	282	Jno. Fraser & Co	2088	Apr. 14, 1862		100
	144	James H. Taylor	2089	do.		50
	117	M. C. Mordecai	2090	do.		86
						236

Transfer-book, pages 33 and 34 and 39—Continued.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
1862.						
Aug. 30	191	James Hoy	.....	.....	1,408	.....
Aug. 30	58	To Confederate court	.....	.....	.....	1,408
					1,408	1,408
1862.						
Aug. 30	58	Confederate court	.....		1,408	.....
	287	To Bank of Newberry, So. C'a	2111	Aug. 30, 1862	.....	800
	287	To Bank of Newberry, South Carolina	2112	do.	.....	200
	287	To Bank of Newberry, South Carolina	2113	do.	.....	200
	287	To Bank of Newberry, South Carolina	2114	do.	.....	208
					1,408	1,408

146 Transfer-book, page 33.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
1862.						
March 4	116	Margaret Milligan	203	Mar. 25, 1848	8	.....
	116	do. do.	1067	April 7, 1857	8	.....
	116	do. do.	1127	June 10, 1857	11	.....
	116	do. do.	2027	Jan. 30, 1861	23	.....
	277	To Eliza Silliman	2072	Mar. 4, 1862	.....	50
					50	
		(Signed) Henry K. Silliman, ex'r.				
1862.						
April 11	58	Sundries D'r to Confederate court:				
	53	E. H. Dungan	.....	.....	9	.....
	52	C. B. Dungan	.....	.....	5	.....
	58	Hugh Elliott, trustee	.....	.....	62	.....
	194	B. Kreischer and nephew	.....	.....	35	.....
	262	W'm Hopper	.....	.....	31	.....
	63	W. S. Faitoute	.....	.....	132	.....
	21	Frederick Brown	.....	.....	500	.....
	41	Theophilus P. Code	.....	.....	125	.....
	189	J. P. Murta	.....	.....	24	.....
	142	Martha Steever	.....	.....	81	.....
	190	G. A. Perdicaries	.....	.....	1,354	2,358
1862.						
April 11	58	Confederate court D'r to sundries:				
	264	Charles Weissenger	2073	Apr. 11, 1862	.....	100
	277	Artemus Gould	2074	do.	.....	200
	278	Thomas Barrett	2075	do.	.....	200

Transfer-book, page 33—Continued.

Date.	Ledg folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
	278	Wilkinson & Fargo.....	2076	do.	.....	200
	279	James Hope.....	2077	do.	.....	200
	99	B. D. Lazarus.....	2078	do.	.....	127
	279	A. H. Hay ce.....	2079	do.	.....	100
	28	O. J. Chafee.....	2080	do.	.....	400
	280	W. H. Wessen.....	2081	do.	.....	100
	42	I. S. Cohen	2082	do.	.....	100
	286	B. O'Neill.....	2083	do.	.....	50
						1,772
1862.						
April 12	58	Confederate court D'r to sundries:				
	281	Henry Daly.....	2084	Apr. 12, 1862	.....	100
	281	Wilbur & Son.....	2085	do.	.....	50
	83	Isaac Harris.....	2086	do.	.....	200
						350
1862.						
April 12	254	J. J. Legare.....	1991	Aug. 3, 1860	100	.....
	255	To David Ramsay	2087	Apr. 12, 1862	.....	100
		J. J. Legare, per David Ramsey. att'y.				
1862.						
April 14	58	Confederate court D'r to sundries:				
	282	John Fraser & Co.....	2088	Apr. 14, 1862	.....	100
	144	James H. Taylor.....	2089	do.	.....	50
	117	M. C. Mordecai.....	2090	do.	.....	86
						236
1862.						
April 15	278	Wilkinson & Fargo.....	2076	Apr. 11, 1862	200	.....
	282	To Maurice Wilkinson.....	2091	Apr. 15, 1862	.....	100
	283	To Joseph C. Fargo.....	2092	Apr. 15, 1862	.....	100
					200	200
		(Signed) Wilkinson & Fargo.				

147 Transfer-book, page 60.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
1866. Mar. 10.		Sundries—				
	378	Thomas Barrett			200	
	287	Bank of Newberry			1008	
	301	E. M. Beach			200	
	42	I. S. Cohen			100	
	275	William Carrington			150	
	28	O. J. Chafee			400	
	290	Dewing, Thayer & Co.			400	
	282	Jno. Fraser & Co			100	
	282	Jos. C. Fargo			100	
	277	Artemas Gould			200	
	279	James Hope			200	
	279	A. H. Hayden			100	
	294	G. T. Jackson			100	
	99	B. D. Lazarus			122	
	117	M. C. Mordecai			86	
	280	B. O'Neill			50	
	305	People's Bank			100	
	154	H. H. Williams			50	
	282	M. Wilkinson			100	
		Sundries—				
	191	James Hoy				1408
	190	G. A. Perdicaries				1354
	21	Frederick Brown				500
	63	W. S. Faitoute				132
	41	Theophilus P. Code				125
	142	Martha Steever				81
	58	Hugh Elliott, trustee				62
	194	B. Kreischer and nephew				35
	262	W'm Hopper				31
	189	J. P. Murta				24
	53	E. H. Dungan				9
	52	C. B. Dungan				5
					3766	3766

Transferred by resolution of the board at their meeting March 9, 1866.

Transfer-book, page 42.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
1863. Feb. 12	287	Bank of Newberry, South Carolina	212	Aug. 30, 1862	200	
	267	Bank of Newberry, South Carolina	213	Aug. 30, 1862	200	
	290	To Dewing, Thayer & Co. John S. Riggs, att'y Bank of Newberry.	2130	Feb. 12, 1862		400
1863. April 23	83	Isaac Harris	2086	Apr. 12, 1862	200	
	301	To E. M. Beach Isaac Harris, per E. M. Beach, att'y.	2167	Apr. 30, 1862		200

Transfer-book, page 49.

Date.	Ledg. folio.	Names.	No. of scrip.	Date of scrip.	Shares. From-	Shares. To-
1862.						
May 2	280	W. H. Wessen	2081	Apr. 11, 1862...	100	
	275	To William Carrington	2096	May 3, 1862....	.....	100
		W. H. Wessen, per Jno. J. Cohen, att'y.				
		Transfer-book, page 35.				
1863.						
Jan'y 21	281	Wilbur & Son	2085	Apr. 12, 1860 ...	50	
	275	To W'm Carrington	2124	Jan. 21, 1863 ...	.....	50
		W. Carrington, att'y of Wilbur & Son.				
		Transfer-book, page 41.				
1863.						
Sept. 22	281	Henry Daly	2084	Apr. 12, 1862...	100	
	305	To People's Bank of So. Ca.	2184	Sep. 22, 1863...	.....	100
		Henry Daly, per att'y, Rob't Thurston				
		Transfer-book, page 52.				

148

EXHIBIT H.

(Copy.)

No. 2073.] [Shares, 100

THE CHARLESTON GAS LIGHT COMPANY,

Charleston, S. C., April 11, 1862.

This certifies that Charles Weissinger is entitled to one hundred shares in the capital stock of the Charleston Gas Light Company.

Transferable only on the books of the said company by Charles Weissinger, or his attorney.

In witness whereof we have hereunto affixed our hands and the seal of the corporation.

[L. S.] JOHN SCHNIERLE,
President.

JOHN R. HERIOT, *Sec.*

No. 2073.] [100 shares.

CHARLESTON, *April* 11, 1862.

Received a certificate of one hundred shares of the capital stock of the Charleston Gas Light Company, upon which all the instalments required by the board of directors have been paid.

(Signed) CHARLES WEISSINGER.

Delivered April 12, 1862.

EXHIBIT I.

No. 1.

The president of the Charleston Gas Light Company will please issue scrip to the order of Charles Weissinger for one hundred shares of stock.

100.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed :) Charles Weissinger.

No. 2.

The president of the Charleston Gas Light Company will please issue scrip to the order of James Hope for eight hundred shares stock.

800.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Transfer the within as below, viz:

To Artemus Gould	200	shares
" Tho's Barrett	200	"
" Wilkinson & Fargo	200	"
" James Hope	200	"
	800	

JAMES HOPE.

APRIL 11, 1862.

No. 3.

The president of the Charleston Gas Light Company will please issue scrip to the order of B. D. Lazarus for one hundred and twenty-two shares stock.

122.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Benj. D. Lazarus.

No. 4.

149 The president of the Charleston Gas Light Company will please issue scrip to the order of O. J. Chafee for five hundred shares stock

500.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Please transfer one hundred shares to A. H. Hayden. Four hundred shares to O. J. Chafee.

No. 5.

The president of the Charleston Gas Light Company will please issue scrip to the order of J. J. Cohen for one hundred shares stock.

100.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Transfer to W. H. Wessen. J. J. Cohen.

No. 6.

The president of the Charleston Gas Light Company will please issue scrip to the order of I. S. Cohen for one hundred shares stock.

100.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) I. S. Cohen.

No. 7.

The president of the Charleston Gas Light Company will please issue scrip to the order of B. O'Neil for fifty shares stock.
50.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) B. O'Neil.

No. 8.

The president of the Charleston Gas Light Company will please issue scrip to Henry Daly for one hundred shares stock, and deliver the same to his agent, M'r James Hope.
100.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

No. 9.

The president of the Charleston Gas Light Company will please issue scrip to the order of Messrs. Wilbur & Son for fifty shares stock.
50.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Wilbur & Son.

No. 10.

The president of the Charleston Gas Light Company will please issue scrip to the order of Harris for two hundred shares stock.
200.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Isaac Harris.

No. 11.

The president of the Charleston Gas Light Company will please issue scrip to the order of T. D. Wagner for one hundred shares stock.
100.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Issue scrip for the within in the name of John Fraser & Co. T. D. Wagner.

No. 12.

The president of the Charleston Gas Light Company will please issue scrip to the order of James H. Taylor for fifty shares stock.
50.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1862.

(Endorsed:) Issue to my name. James H. Taylor.

150 No. 13.

The president of the Charleston Gas-Light Company will please issue scrip to the order of M. C. Mordecai for eighty-six shares of stock.

86.

(Signed) JOHN W. CALDWELL, *Receiver.*

CHARLESTON, 11*th April*, 1863.

(Endorsed:) Be pleased to deliver to M'r C. W. Cleapor the within-named eighty-six shares of stock in your company. M. C. Mordecai, April 14th, 1862. President Charleston Gas Light Company.

No. 14.

CONFEDERATE STATES
vs.
PROPERTY OF JAMES HOY.

The jury having found James Hoy to be an alien enemy, on motion of M'r Miles, district attorney, ordered that John W. Caldwell, one of the receivers of this court, do sell, after the usual notice by advertisement, at public auction, the shares in the Charleston Gas Company standing in the name of the said Hoy, and sequestered in this case as his property.

By the court.

(Signed) H. Y. GRAY, *Clerk.*

JULY 10TH, 1862.

CHARLESTON, 17*th August*, 1862.

The president of the Charleston Gas Light Company will please transfer to the order of B. D. Boyd, esq., fourteen hundred and eight (1,408) shares in said company, the same now standing in the name of James Hoy, and sold by order of court.

(Signed) JOHN W. CALDWELL, *Receiver.*

(Written across the face:) By order of Confederate court. Accepted: J. Schnierle, president.

(Endorsed:) Transfer the within fourteen hundred and eight shares Charleston Gas Light Company to the Bank of Newberry, South Carolina.

B. D. BOYD.

AUGUST 30, 1862.

One certificate	800	shares		800
Two "	200	"		400
One "	208	"		208
				1,408

EXHIBIT K.

HEADQUARTERS, FIRST SUB-DISTRICT,
MILITARY DISTRICT OF CHARLESTON,
Charleston, S. C., Jan'y 26th, 1866.

Special orders, No. 14.

I. The gas-works of the city of Charleston captured by the U. S. forces at the occupation of the city, on the 18th day of February, 1865, are hereby turned over to the agent of the U. S Treasury Department.

The president of the company will report the expenditures and receipts of the works since the occupation of the city.

By order of B't Brig. Gen'l W. T. Bennett, commanding post and first sub-district.

GEORGE BERGER,
Capt. 54 N. Y. V. & A. A. A. G.

M'r THURSTON, *President of Gas-Works.*

151 EXHIBIT L.

HEADQUARTERS, FIRST SUBDISTRICT,
MILITARY DISTRICT OF CHARLESTON,
Charleston, S. C., Feb'y 9, 1866.

Special orders, No. 23.

I. M'r Robert Thurston is hereby relieved from duty as president of the Charleston Gas Light Company.

II. Lieut. Frank Geise, 54th N. Y. V. vol's and pro. marshal, in addition to his other duties, will assume the duty of president of the Charleston Gas Light Company.

M'r Thurston will turn over to Lieut. F. Geise, pro. marshal, records and funds pertaining to that office.

By order of Br't Brig. Gen'l Bennett, commanding post and first subdistrict.

GEORGE BERGER,
Capt. 54 N. Y. V. V. and A. A. A. G.

M'r ROBERT THURSTON,
Charleston, S. C.

EXHIBIT M.

DEPARTMENT OF SOUTH CAROLINA,
Charleston, March 7th, 1866.

Brev. Major-Gen. CHA'S DEVENS,
Commanding District, &c.:

GENERAL: In conformity with special orders No. 31, dated February 22d, 1866, I have investigated the "financial condition of the Charleston Gas Light Company," (whose works were captured by, and now are in the possession of, the United States,) and the present situation of the rights of loyal stockholders, which may have been impaired during the rebellion by any act of pretended confiscation or otherwise, for the purpose of making such suggestions as I may think feasible for restoring their rights, and which may be consistent with justice and equity, and I have to report as follows:

The Charleston Gas Light Company is a corporation created by the laws of South Carolina, for the purpose of manufacturing gas for the city. Their capital stock is seven hundred and sixty-six thousand six hundred dollars, ($766,600,) divided into thirty thousand six hundred and sixty-four shares (30,664) of twenty-five dollars each. At and before the time of the breaking out of the rebellion, three thousand seven hundred and sixty-six (3,766) of these shares were held by the following-named loyal citizens of the United States, in the proportions designated:

James Hoy, of Philadelphia	1,408 shares.
G. A Perdicaries, of Trenton, N. J	1,354 "
Frederick Brown, of Philadelphia	500 "

W. S. Faitoute, of Newark, N. J	132	shares.
Theophilus Code, of Philadelphia	125	"
Martha Steever, of "	81	"
Hugh Elliott, of "	62	"
B. Kreischer and nephew, of New York	35	"
W'm Hopper, of Philadelphia	31	"
John P. Murta, of "	24	"
E. H. Dungan, of "	9	"
C. B. Dungan	5	"
Total	3,766	shares,

whose par value was ninety-four thousand one hundred and fifty dollars, ($94,150.)

For several years before the rebellion this company had generally earned and divided about ten cent. a year on its capital, and in
152 the month of May, 1861, the books show the capital stock to have been worth eighteen per cent. above par, the result of accumulated earnings beyond the dividends. The stock was in public favor, and was sold as high as thirty-three dollars a share, or at a premium of thirty-two per cent.

In July, 1861, four per cent. and in January, 1862, four per cent. were divided; but the dividends of the loyal stockholders remained to their credit on the books of the company, and were never remitted to them nor paid.

In February and March of 1862, the above-named loyal citizens of the United States were declared by the verdict of a jury, sitting in Charleston, to be "alien enemies," and John W. Caldwell, esq., a person claiming to be a receiver, appointed by what was called a "Confederate court," demanded of the Charleston Gas Light Company the sums of money then standing to their credit as dividends, and a transfer of the stock standing on the books of the company in their names. Upon the demand, the company paid the overdue dividends belonging to these citizens to M'r Caldwell, and credited the Confederate court on their books with thirty-seven hundred and sixty-six shares of their capital stock, being an amount equal to that which was then owned and held by the loyal stockholders who had been declared "alien enemies;" at the same time charging the stock so credited to the loyal stockholders, whose accounts were all balanced by the process, and whose names disappeared from the books as owners. No certificate of stock was issued to the Confederate court, and, thus far, the transaction was one of book-entries simply.

Subsequently, the Confederate court sold this stock for about ninety-four thousand dollars, and paid the proceeds, together with the overdue dividends, into the treasury of the rebellion, and scrip was issued by the company to the purchasers, thereby increasing the amount of stock actually appearing on the books of the company by the whole number of shares thus issued. The certificates of this Confederate-court stock have not been mingled with any of the genuine stock of the company, so that there is no difficulty in distinguishing them from it.

In July, 1862, the company declared a dividend of four per cent., and in January, 1863, a further dividend of three per cent. From that time till January, 1865, no other dividends were made, when one of eight per cent. was declared and paid in "Confederate currency," which at that time had largely depreciated in value. None of these dividends have been paid to the loyal stockholders.

During the siege of Charleston the company suffered from the destruc

tion of street-pipes, by shells and from fire, but it is now in a much better condition than most of the corporations in the city. After making the reduction in the assets which the destruction of property and the change of value require, the stock of the company is now worth, on its books, about seventeen dollars a share, and the constant decrease in the cost of production and increased demand give promise of a rapid recovery.

In this situation of affairs the question presented to the Government of the United States is, on what terms it will restore possession of these gas-works to the company; and I am ordered to suggest the conditions. In considering this question it should be known that the officers of this company have taken some pains to spread on its minutes an elaborate statement of its special services in the cause of the rebellion, which is contained in a written communication addressed to the mayor of Charleston, January, 1863. You will perceive that the company claims as a merit that it sacrificed the pecuniary interests of the stockholders in order to supply fuel at cost for the use of the war-vessels in the harbor and the foundries where cannon were made. They were rendering extraordinary aid in the defence of Charleston, and were staking their works on the issue. The results have been adverse to their expectations and efforts, and they would have no just cause to complain if the United States should avail itself of the right of capture and retain the property thus used against them. All private property captured in a city which has been summoned and has resisted belongs to the captors; but when that property has been actively employed in the resistance it loses all claim to immunity. But I trust that the Government will give an example of magnanimity in its treatment of those who have thus employed their resources
153 for its destruction, which will be more illustrious when contrasted with the attempt of the so-called "Confederate government" to confiscate the property of those loyal stockholders—one of them a woman—against whom nothing was charged except that they had not joined the rebellion.

I am, therefore, of opinion that the Government should deliver these gas-works to the company when it shall have restored the loyal stockholders to the possession of their stock as perfectly as if no attempt had been made to divest them of it, and shall have paid them the value of the dividends which have been earned out of the property since January, 1861. This redress will not indemnify the loyal stockholders for their losses, but it will leave them in the same condition as if no attempt had been made against their rights.

It is true that if the rebellion had succeeded the loyal stockholders would have lost all their stock in this company, and it is urged in their behalf that the full value of their stock, at the time of the rebellion, ought to be paid them out of the captured property, of which they are joint owners, the specific property which has been attempted to be confiscated; its depreciation in value occasioned by the rebellion must be endured as a misfortune, which in this case ought not to be repaired out of the property of those who have likewise suffered from the same general cause.

The company can readily carry into effect these suggestions for restitution by re-transferring on the books thirty-seven hundred and sixty-six (3,766) shares of stock, issued by order of the Confederate court, from those in whose names it now stands to those loyal citizens above named who own it, but whose names have been stricken off the stock-ledger as owners. When that is done the accounts of the holders under the "Confederate court" will be closed, and their names will disappear

from the company's books as parties interested, while the names of the true owners will again appear as stockholders.

This act ought to be done under a resolution of the board of directors, declaring that the attempted transfer of stock had been made to the Confederate court without any legal authority from its owners and in violation of their rights, and that the holders of the certificates issued under the order of the Confederate court are not lawful stockholders in the company.

The overdue dividends which the company will have to pay upon the principles of this report can be easily computed and adjusted if the Government shall decide to restore the property on the terms suggested herein, and the company should accept it on these terms.

(Signed) EDWARD N. DICKERSON,
Commander.

MARCH 12TH.

Official:
N. A. RICE,
Capt. 35th U. S. C. T., A. A. A. Gen'l.

EXHIBIT N.

TREASURY DEPARTMENT,
April 7th, 1866.

SIR: In the matter of the Charleston gas-works, turned over to you by order of Gen. Bennett, dated January 26th last:

It appears that they were taken possession of by the military authorities for the purpose of protecting the rights of certain citizens of the loyal States who had been unlawfully deprived of their interest in said company by the assumed authority of a court, acting under the late pretended government of the so-styled Confederate States, by the confiscation or sequestration and transfer thereof to other parties during the existence of the late rebellion.

It appears also that, in accordance with resolutions to that effect passed by the board of directors at a meeting held on the 9th of March, ultimo, the proper transfer-entries have been made on the stock-books of said company, whereby the loyal stockholders now appear on the books reinstated in their original rights, while the stock accounts
154 of the claimants under the so-called Confederate court have been closed, and they no longer appear as holding that stock.

And it also appears that the said company has executed a deed of trust to Duncan, Sherman & Co., of New York, transferring to them twenty thousand dollars of the first-mortgage bonds of the company, to be by them held in trust to pay the arrears of dividends now due to said loyal stockholders, who have the option to take such bonds in payment at once.

It appears further that, after a review of the whole case, Gen. Sickles, commanding the department of South Carolina, recommends that the property in question be restored to the corporation.

I see, therefore, no good reason why said gas-works should longer remain in your custody or under your control. You are accordingly hereby authorized and instructed to restore them to the lawful officers of the company immediately on receipt hereof; on the condition, however, that they first pay any expenses which may have been paid or incurred in anywise on account thereof by officers of the Government; and that they also execute and furnish to you a certificate of probable cause of

seizure which will acquit and hold harmless the Government of the United States, and all its officers and agents, against any claim whatever for loss or damage growing out of the seizure or holding of said property.

Please report your action hereunder.

Very respectfully,

(Signed) H. McCULLOCH,
Secretary of the Treasury.

I certify that the foregoing is a true copy of the duplicate original letter signed by the Secretary of the Treasury on file in this office.

T. C. CALLICOT,
Supervising Special Agent 8th Special Agency,
U. S. Treasury Department, Charleston, S. C.

EXHIBIT O.

TREASURY DEPARTMENT, EIGHTH AGENCY,
OFFICE OF SUPERVISING SPECIAL AGENT,
Charleston, S. C., May 8th, 1866.

ROBERT THURSTON, Esq.,
President of the Charleston Gas Light Company:

SIR: The conditions precedent set forth in the letter of the Secretary of the Treasury dated April 7th, 1866, having been complied with, the gas-works in the city of Charleston, S. C., claimed by the Charleston Gas Light Company, of which you are president, are hereby released and restored to the said corporation.

Respectfully,

T. C. CALLICOT,
Supervising Special Agent.

EXHIBIT P.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, April 20, 1872.

It appears from the records of this office that the annexed papers are true extracts from the original papers captured by the forces of the United States from the authorities of the late so-called Confederate States of America, and now on file in this Department.

E. D. TOWNSEND,
Adjutant-General.

Be it known that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant-General of the Army of the United
155 States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of the United States of America to be hereunto affixed on this twenty-second day of April, one thousand eight hundred and seventy-two.

[L. S.] W'M W. BELKNAP,
Secretary of War.

Treasurer of the Confederate States in account with B. C. Pressley, assistant treasurer.

1862.	D'R.	
July 31.	To amount brought forward	$1,348,067 35
	Balance	1,339,387 88
		$2,687,455 23
1862.	C'R.	
July 26.	By amount brought forward	$1,159,676 65
July 30.	By H. Y. Gray, dist. clerk, money under sequestration	190,781 05
		$2,687,455 23
1862.		
Aug. 1.	By balance brought down	$1,339,387 88

Charleston, August 1st, 1862.

(Signed) B. C. PRESSLEY,
Ass't Treasurer.

Treasurer of the Confederate States in account with B. C. Pressley, assistant treasurer.

1862.	D'R.	
Oct. 9.	Amount brought forward	$18,180 94
	Amount carried forward	$18,425 31
1862.	C'R.	
Oct. 3.	Amount brought forward	$9,317,119 28
Oct. 7.	H. Y. Gray, clerk, ac. money paid into court since 29th July last, by receiving under sequestration act	7,621 94
	Amount carried forward	$12,049,476 16

Charleston, Dec. 11th, 1862.

(Signed) B. C. PRESSLEY,
Assistant Treasurer.

Treasurer of the Confederate States in account with B. C. Pressley, assistant treasurer.

1862.	D'R.	
Dec. 22.	Draft $3,554 W 1126 T	$300,000 00
	Amount carried forward	$1,120,564 01

1862.	C'R.	
Dec. 22.	Balance	$13,959,799 63
* * * * * * *		
Dec. 23.	H. Y. Gray, clerk C. c't ac. sequestration act.	15,546 34
* * * * * * *		
	Amount carried forward	$14,198,495 97

Charleston, December 31st, 1862.
(Signed) B. C. PRESSLEY,
Ass't Treasurer.

156 *Treasurer of the Confederate States in account with B. C. Pressley, assistant treasurer.*

1863.	D'R.	
Jan. 26.	Draft $100 W, $98 F	$1,537 000
* * * * * * *		
	Carried forward	$176,479 41

1863.	C'R.	
Jan. 26.	Balance	$11,582,170 46
* * * * * * *		
Jan. 28.	H. Y. Gray, clerk C. c't rec'd under sequestration act	132,664 81
* * * * * * *		
	Carried forward	$11,876,785 27

Charleston, 31st January, 1863.
(Signed) B. C. PRESSLEY,
Ass't Treasurer.

EXHIBIT Q.

Extract from president and directors' annual report to the stockholders at an annual meeting held May 14, 1866.

In order to encourage a consumption, we have kept the price of gas at the lowest practicable figure; the expenses we have incurred have more than absorbed our receipts, and it has been deemed advisable to extend our debt over a few years by an issue of bonds to the amount of $75,000, secured by a mortgage of our works in Charlotte street; we will thus be in condition to lay aside each year a portion of our earnings for the redemption of these bonds. These bonds were ready for issue early in January, and we had expected some advantage and assistance from the sale of them; but, with our works out of our possession, it was thought prudent to withhold them. Twenty thousand dollars of these have, however, been deposited with Mess'rs Duncan, Sherman & Co., as security for $15,064, the value of dividends declared during the war on 3,766 shares of stock which had been sequestrated, and the payment of which dividends was made one of the conditions of the restoration of our works. The other conditions of restoration were:

1st. That the company retransfer on their books the 3,766 shares sold under the sequestration act to the original holders, so to close

entirely, on the stock-ledger, the accounts of parties purchasing under that act.

2d. That the company pay all expenses incurred by the United States Government in the seizure.

3d. That the company hold harmless the Government from any losses that may hereafter accrue from said seizure.

These conditions were made imperative; no course was left for your board but to comply, and, after consulting legal advice, resolutions were passed covering the conditions. These resolutions now form a part of our minutes.

EXHIBIT R.

NEW YORK, *June 11th*, 1872.

Mess'rs RUTLEDGE & YOUNG,
26 *Broad street, Charleston, S. C.:*

DEAR SIRS: I beg herewith to return to you, duly discharged, the mortgage of the Charleston Gas Light Company, together with the original deed of trust, of which please acknowledge the receipt.

Apologizing for the delay, which has been unavoidable,

I remain, dear sirs, yours, truly,

W. BURT DUNN.

157 Be it known that the Charleston Gas Light Company, a corporation of the city of Charleston, South Carolina, in accordance with a resolution of its board of directors, passed on the ninth day of March, A. D. 1866, have assigned, transferred, and set over to Duncan, Sherman & Co., bankers, of the city of New York, forty first-mortgage bonds, each for five hundred dollars, secured by a mortgage on the gas-works of said company, in trust, for the following purpose, to wit:

That the said Duncan, Sherman & Co. shall hold said bonds to pay or secure the payment of the sum of fifteen thousand and sixty-four dollars, with interest at the rate of seven per cent. per annum from the ninth day of March, A. D. 1866, to the following-named stockholders of said company, and to pay to each of said stockholder, or his legal representative or assign, at the rate of four dollars a share on each share of the stock of said company now standing to their credit on the books, that is to say:

To James Hoy, holding 1,408 shares, the sum of five thousand six hundred and thirty-two dollars	$5,632 00
To G. A. Perdicaries, holding 1,354 shares, the sum of five thousand four hundred and sixteen dollars	5,416 00
To W'm S. Faitoute, holding 132 shares, the sum of five hundred and twenty-eight dollars	528 00
To Frederick Brown, holding 500 shares, the sum of two thousand dollars	2,000 00
To Theo. P. Code, holding 125 shares, the sum of five hundred dollars	500 00
To Martha Steever, holding 81 shares, the sum of three hundred and twenty-four dollars	324 00
To Hugh Elliott, (executor Martha Elliott,) holding sixty-two shares, the sum of two hundred and forty-eight dollars	248 00
To B. Kreischer and nephew, holding thirty-five shares, the sum of one hundred and twenty four dollars	124 00
To J. P. Murta, holding twenty-four shares, the sum of ninety-six dollars	96 00

To E. H. Dungan, holding nine shares, the sum of thirty-six dollars 36 00
To C. B. Dungan, holding five shares, the sum of twenty dollars 20 00

Total $15,064 00

with interest at seven per cent. per annum from March 9th, 1866, till paid.

And the said Duncan, Sherman & Co. are hereby authorized and empowered to assign and deliver to any or all of said stockholders so many of the said bonds as may be sufficient, at par, to pay the above-stated amounts due to such stockholders, provided said stockholder shall elect to receive such bonds at par in payment within one year from this date; but if said stockholders shall not so elect, and the said Charleston Gas Light Company shall not, within one year from this date, have paid the said stockholders the above-stated sums due them, then the said Duncan, Sherman & Co. are authorized and directed to sell so many of said bonds at public sale as may be necessary to pay such sums to said stockholders, with interest, and out of the proceeds of the sale of said bonds to pay such sums to said stockholders, and after defraying the expenses of the sale to pay the balance over to this company.

In witness whereof the said Charleston Gas Light Company have caused its corporate seal to be affixed hereunto this tenth day of March, A. D. 1866.

[L. S.] ROBERT THURSTON,
President.

Attest:
W. J. HERIOT, *Secretary.*

We hereby accept the trust declared in the above instrument, and agree to execute the same for the benefit of the above named stockholders of said company, but at the expense of the company.

DUNCAN, SHERMAN & CO.

158 EXHIBIT S.

Ledger page 58.

CONFEDERATE COURT.

1862.				1862.			
Apr. 11	To sundries.....	34	$1,772	Apr. 11	By sundries.....	33	$2,358
" 12	do.	34	350				
" 12	do.	34	236				
			2,358				
1862.							
Aug. 30	To Bank of Newberry, South Carolina	39	1,408	Aug. 30	By James Hoy...	39	1,408

EXHIBIT T.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, August 31st, 1872.

It appears from the records of this office that the annexed papers are

true copies of the original papers captured by the forces of the United States and now in the custody of this Department.

E. D. TOWNSEND,
Adjutant-General.

Be it known that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant-General of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of the United States of America to be hereunto affixed on this day of , one thousand eight hundred and .

[L. S.]

W'M W. BELKNAP,
Secretary of War.

CONFEDERATE STATES OF AMERICA,
South Carolina District:

In the district court.

Petition for sequestration.

To the Hon. A. G. MAGRATH,
Confederate Judge for the District aforesaid:

The petition of John W. Caldwell, receiver of sequestrated estates, duly appointed by the judge aforesaid, who sues in the name and behalf of the Confederate States of America, respectfully sheweth:

First. That open and public war exists between the United States of America and the said Confederate States of America, by virtue of an act of the congress of the said Confederate States entitled "An act recognizing the existence of war between the United States and the Confederate States, and concerning letters of marque, prizes, and prize-goods," approved on the sixth day of May, A. D. 1861.

Second. That by virtue of the act of the congress of the said Confederate States entitled "An act for the sequestration of the estates, property, and effects of alien enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States," approved on the 30th day of August, A. D. 1861, all and every the lands, tenements, and hereditaments, goods and chattels, rights and credits, within these Confederate States, and every right and interest therein held, owned, possessed, or enjoyed by or for any alien enemy since the 21st day of May, 1861, except such debts due to an alien enemy as may have been paid into the treasury of any one of the Confederate States prior to the passage of said act, are sequestrated by the Confederate States of America, to be held for the indemnity of certain citizens of the said Confederate States and others, according to the provisions of the act of Congress aforesaid.

Third. That there are within the limits of these Confederate States, to wit, in the city of Charleston, in the district aforesaid, and within the jurisdiction of this court, certain lands, tenements, and hereditaments, goods and chattels, rights, and credits held, owned, possessed, and enjoyed by or for certain alien enemies, to wit, Martha Steever, a citizen of the United States, and residing and having a domicil within the said United States, to wit, in the city of Philadelphia, in the State of Pennsylvania.

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That the estates, property, and effects so situate consist, as your petitioner has been informed, of certain goods and chattels, rights and credits, of the said alien enemy, and particularly of several (to wit, eighty-one) shares of the capital stock of the Charleston Gas Light Company, a body politic and corporate, of the State of South Carolina, in the city of Charleston, whereof John Schnierle is president, and also of the arrears of dividends thereon. That the said John Schnierle is the agent and attorney and person holding, exercising supervision over, in possession of, or controlling the interests, property and effects, rights and credits of the alien enemy aforesaid.

And that the estate, effects, property, and interests of the alien enemies aforesaid are, when ascertained, liable to be sequestrated by virtue of the act of Congress aforesaid.

Wherefore your petitioner, in the name and behalf of the said Confederate States, prays that process in due form of law, according to the course of this honorable court in cases of this nature, may issue against the said Charleston Gas Light Company, and all other persons holding, exercising supervision over, in possession of, or controlling all and singular the lands and tenements, goods, chattels, rights, and credits, or any interest therein, of the alien enemies aforesaid, that he and they may be required upon oath to answer, set forth, and discover whether the said Martha Steever are not alien enemies of the Confederate States, and whether the property and effects herein before specified, or any interest therein, are held or controlled by them or either of them for the alien enemies aforesaid, or any or either of them, or for any other alien enemies; and whether they or any or either of them have any custody, possession, or control, of any other lands, tenements, hereditaments, goods, chattels, rights, and credits, of the alien enemies aforesaid, or any or either of them; and whether they or any or either of them have any claim or lien on any of the property and effects aforesaid.

And that your petitioners may be entitled to writs of garnishment, to be issued out of and under the seal of this honorable court, and directed to such other persons as may have in their possessions, custody, or control, any other property and effects of the alien enemies aforesaid, or any or either of them, and that the said property and effects of the alien enemies aforesaid, and all other property belonging to the said alien enemies, or in which they may have an interest, which shall be discovered and be brought within the jurisdiction of this court, may be sequestrated according to the provisions of the act of Congress aforesaid, for the uses and purposes in the same specified; and that your petitioner may have such other and further order, decree, direction and relief in the premises as the nature of the case may require, and to your honor may seem meet.

And your petitioner will ever pray, &c.

C. R. MILES,
Confederate States District Attorney pro tem.

JOHN W. CALDWELL,
Receiver.

In the district court of the Confederate States, South Carolina district.

THE CONFEDERATE STATES
vs.
MARTHA STEEVER, AN ALIEN ENEMY.

And whereas, upon the hearing of the petition in the aforesaid cause, and all other papers to the same relating, together with the evidence

produced before the jurors, to whom, by order of the court, the same were submitted, they the said jurors, that is to say, W. B. Smith,
160 foreman, and eleven others, being first duly sworn, did in open court find by their verdict, then and there given, that the property mentioned in the said petition is, and has been since the 21st day of May, A. D. 1861, the property of an alien enemy: therefore, it is now by the said court ordered, that the said property be sequestered for the use of the Confederate States of America, according to the act of Congress of the Confederate States of America, No. 269, approved the 30th day of August, A. D. 1861, and the mandate of this court forthwith issue to the receiver to take the possession, control, and management of the said property for the use of the Confederate States of America.

Judgment signed 24th January, 1862.

(Signed) H. Y. GRAY, *Clerk.*

I did, by my deputy, W. C. Waterbury, serve the within defendant, personally, with a true copy of the annexed petition for sequestration, with a proper notice thereon endorsed. Service proved.

D. H. HAMILTON,
Marshal Confederate States, District South Carolina.

We find Martha Steever an alien enemy, and the property in the said petition is her property.

(Signed) W. B. SMITH, *Foreman.*

To the Hon. A. G. MAGRATH,
Judge of Confederate States, &c.:

In conformity with your order of 29th March, I beg leave respectfully to report that I duly advertised for sale, at public auction, on 11th instant, all the stocks ordered by the court. The following was the result:

2,358 shares gas company stock, viz, to—

J. H. Taylor, 50 shares, at	$22
J. J. Cohen, 100 shares, at	21 1/2
B. D. Lazarus, 122 shares, at	21 1/2
Wilbur, 50 shares, at	21 1/2
Daley, 100 shares, at	21 1/2
O'Neill, 50 shares, at	21 1/2
Cohen, 100 shares, at	21 1/2
Chafee, 500 shares, at	21 1/2
Weissinger, 100 shares, at	21 1/2
Hope, 800 shares, at	21 5/8
Wagner, 100 shares, at	21 3/4
Harris, 200 shares, at	21 5/8
Mordecai, 86 shares, at	21 5/8

Making an average of $21.60 each.

Cohen, 25 shares Elmore Insurance Company	20 1/2
Oakes, 75 shares " " "	20 1/2

* * * * * * *

Charleston, 14th April, 1862.

Note.—The original of the foregoing has no signature, but is in the handwriting of J. W. Caldwell.

A. P. TASKER,
C. C. Archive Office, War Department.

EXHIBIT V.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, December 26th, 1871.

It appears from the records of this office that the annexed paper is a true copy of an original paper from the records of the Confederate court, South Carolina district, now on the files of this Department.

E. D. TOWNSEND,
Adjutant-General.

161 Be it known, that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant-General of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof, I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of the United States of America to be hereunto affixed on this day of , one thousand eight hundred and .

[L. S.]

W'M K. BELKNAP,
Secretary of War.

CONFEDERATE STATES OF AMERICA,
District of South Carolina:

IN RE CONFEDERATE STATES OF AMERICA
vs.
THE PROPERTY OF JAMES HOY, EX PARTE James Hoy.

To the Hon. A. G. MAGRATH,
District judge of the Confederate court for the district aforesaid:

The petition of James Hoy respectfully sheweth, that he is informed that certain proceedings were instituted in this honorable court for the sequestration of certain stock, to wit, fourteen hundred and eight shares, with dividends accrued, standing in the name of your petitioner on the books of the Charleston Gas Light Company, on the ground that your petitioner was an alien enemy of the Confederate States, and that on the eighteenth day of July, eighteen hundred and sixty-two, judgment was entered up against him, and the said stock has been sold by the order of this honorable court.

Your petitioner would shew unto your honor that at the commencement of hostilities between the late United States and the Confederate States of America, he was a resident and citizen of the State of New York; that shortly after, to wit, some time before the 19th day of August, 1861, your petitioner left the city of New York and removed to the city of Baltimore, in the State of Maryland, with the intention of making the same his permanent residence; that since then he has continued to reside there and claims to be a citizen of the said State of Maryland.

And your petitioner denies that he is an alien enemy of the Confederate States, and appeals to his abandonment of New York and removal to Maryland as an evidence of his opposition to the war; and claims to be embraced in the 3d class of parties excepted from the operation of the sequestration act, as set forth in the 6th section of the act entitled "An act to alter and amend an act entitled 'An act for the sequestra-

tion of the estates, property, and effects of alien enemies, and for indemnity of citizens of the Confederate States and persons aiding the same in the existing war with the United States.'"

Your petitioner having abandoned the enemy's country before the passage of the original sequestration act, and claiming to be bona fide a citizen of the State of Maryland ever since, where he is permanently domiciled.

Your petitioner, therefore, prays that in accordance with the provisions of the 30th section of the act of Congress above cited, he be allowed to intervene; and, upon proof of the premises, he be admitted to the benefits of the said section.

And, as in duty bound, your petitioner will ever pray, &c.

(Signed) MEMMINGER, JERVEY & WILKINSON,
Pro. Pet.

162 EXHIBIT W.

Banks of Charleston.

CHARLESTON, *Friday Morning, 6th September*, 1861.

At a meeting of delegates from the several banks of this city, held at 10 o'clock this day at the Planters and Mechanics' Bank, all the banks being represented—

Mr. Charles M. Furman, the chairman of the committee appointed by our banks on the 22d ultimo to proceed to Richmond and proffer to the secretary of the treasury such further loans as circumstances might render desirable, until the treasury-notes of the smaller denomination could be provided, submitted the report of the committee, the result being, that the department declined the loan, deeming sufficient for the wants of the treasury the arrangements made and in progress for the supply of treasury-notes.

Whereupon, the following resolutions were unanimously adopted:

1. Resolved, That the several banks in Charleston will continue to receive treasury-notes in payment of all dues to themselves, and also on deposit, and will receive payments in the same medium for all paper sent to them for collection; and they hereby decline all collections for which payments in treasury-notes is not satisfactory.

2. Resolved, That in conformity with the spirit and purpose of the foregoing resolution, all credits will be given and be payable in currency, in which term treasury-notes are included.

(Signed) DANIEL RAVENEL, *Chairman.*

EXHIBIT X.

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
Washington, August 31st, 1872.

It appears from the records of this office that the annexed papers are true copies of originals which were captured by the forces of the United States, and which are now on file in this Department.

E. D. TOWNSEND
Adjutant General.

Be it known, that Edward D. Townsend, who has signed the foregoing certificate, is the Adjutant General of the Army of the United States, and that to his attestation as such full faith and credit are and ought to be given.

In testimony whereof, I, William W. Belknap, Secretary of War, have hereunto set my hand and caused the seal of the Department of War of the United States of America to be hereunto affixed on this day of , one thousand eight hundred and .

[L. S.] W'M W. BELKNAP,
Secretary of War.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

163 Names of alien enemies.	Description of property.	Amount.
G. A. Perdicaries, Trenton, N. J.	Thirteen hundred and fifty-four shares gas-company stock. Dividends on same.....	$1,354 00

Copied from president's return.
Sworn to October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st of May, 1861.

Names of alien enemies.	Description of property.	Amount.
B. Kreischer & Nephew, New York.	Thirty-five shares gas-company stock. Dividends due on same.....	$35 00

Copied from return of president.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
E. H. Dungan.	Nine shares gas-company stock. Dividends on same.....	$9 00

Copied from return of president.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
Hugh Elliott, trustee, Philadelphia, P'a	Sixty-two shares gas-company stock. Dividends on same..	$62 00

Copied from return of President.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
John P. Murta, Philadelphia.	Twenty-four shares gas-comp'y stock. Dividends due on same	$24 00

Copied from president's return.
Sworn to October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

164 Names of alien enemies.	Description of property.	Amount.
James Hoy, Trenton, N. J.	Fourteen hundred and eight shares gas-company stock. Dividend due on same	$1,408 00

Copied from president's return.
Sworn to October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
Frederick Brown, Philadelphia.	Five hundred shares gas-comp'y stock. Dividends due on same	$500 00

Copied from return of president.
Sworn to October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
Theophilus Code, Philadelphia.	One hundred and twenty-five shares gas light company stock. Dividends on same	$125 00

Copied from return of president.
Sworn to October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
Martha Steever, Philadelphia.	Eighty-one shares gas-company stock. Dividends on same	$81 00

Copied from president's return.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
William Hopper, Philadelphia.	Thirty-one shares gas-comp'y stock. Dividends on same.....	$31 00

Copied from return of president.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

165 Names of alien enemies.	Description of property.	Amount.
C. B. Dungan, Philadelphia.	Five shares in the above company. Dividends on same	$5 00

Copied from return of president.
Sworn to day of October, A. D. 1861.

Confederate States sequestration act, 1861.

Return of J. Schnierle, president Charleston Gas Light Company, of property and effects of alien enemies, in his possession or control, since the 21st day of May, 1861.

Names of alien enemies.	Description of property.	Amount.
W. S. Faitoute, Newark, N. J.	One hundred and thirty-two shares gas-company stock. Dividends on same.	$132 00

Copied from president's return.
Sworn to October, A. D. 1861.

And on the 11th day of December, 1873, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Pinckney & Jervey, and filed the following order making parties plaintiffs, which order is in the words and tener following:

Order.

UNITED STATES OF AMERICA:

Circuit, South Carolina district.

G. A. PERDICARIES ET AL.
vs.
THE CHARLESTON GAS LIGHT CO. ET AL.

166 It being shown to the satisfaction of the court that Charlotte Augusta Brown, John P. Murta, Theophilus P. Code, W'm Hopper, and Martha Steever, citizens of the State of Pennsylvania, have come in as plaintiffs, and are ready to contribute to the expenses of this suit, it is ordered, on motion of Memminger, Pinckney & Jervey, that they be deemed plaintiffs therein, as if they had joined in the bill of complaint at its filing, with all the rights and obligations belonging to such position in the cause.

Dec. 11, 1873.

HUGH L. BOND, *C't Judge.*

And on the 13th day of December, 1873, came into court the complainant, G. A. Perdicaries, by his solicitors, Memminger, Jervey & Pinckney, and filed the following order for injunction; which order is in the words and tener following:

Order for injunction.

UNITED STATES OF AMERICA:

Fourth circuit, eastern district of South Carolina. In equity.

167 PERDICARIES
vs.
GAS LIGHT CO. ET AL.

On motion of Memminger, Jervey & Pinckney, complainant's solicitor', it is hereby ordered that till the further order of this court the injunction heretofore granted in this cause be continued and so extended that all and singular the defendants, their agents, officers, servants, and attorneys, be and are hereby enjoined from bringing or prosecuting any suit or suits, action or actions, against the said Charleston Gas Light Company for and on account of said certificates of stock, or any of them, or of the stock purporting to be represented thereby, or of the act of the said company in creating the same, or for any damages claimed by reason of issue of said stock, or any act or thing committed therewith or arising thereon, and that the parties be required to adjudicate in this court all matters arising out of the premises.

Dec. 13, 1873.

HUGH L. BOND, *C't Judge.*

168 And at the said November term, A. D. 1873, of the said court the said parties came into court for a final hearing of the cause, by their solicitors aforesaid, and the cause being heard upon the pleadings and the evidence of Hiram Dewing, which evidence is as follows:

Commission.

THE STATE OF SOUTH CAROLINA,
Charleston County:

In the court of .

The State of South Carolina to William F. Lett and Samuel B. Mower, of the city of New York, commissioners, greeting:

Whereas a certain cause is now depending in the court of common pleas for the said county, wherein Dewing, Thayer & Company are plaintiffs and the Charleston Gas Light Company is defendant, and it being necessary to the investigation of the said cause that certain persons resident in the city of New York should be examined on certain interrogatories:

Now, know ye that, in confidence of your prudence, ability, and
169 integrity, you are appointed, and by these presents full power and authority are given to you, or any two or more of you, to examine all witnesses whatsoever, as well on the part of the said plaintiffs as on the part of the said defendant, or either of them, upon interrogatories.

And therefore you, or any two or more of you, are hereby authorized and required on certain days, and at certain places, to be appointed by you for that purpose, to cause such witnesses to come before you, and then and there to examine each of them apart on the said interrogatories, on their respective corporal oaths first taken, before you, or any two or more of you, and to reduce their depositions to writing, and return this writ to the judges of the said court at Charleston, in the State of South Carolina, under your seals, with the said interrogatories and depositions annexed. And you, and every of you, are hereby further required that before you proceed to swear and examine any witnesses you severally take the oath first specified in the schedule hereunto annexed.

And any one of you is hereby authorized and empowered to administer such oath to the other or others of you.

And you are hereby further authorized and required, jointly or
170 seperately, to administer the oath last specified in the said schedule hereunto annexed to any clerk employed in taking the deposition of witnesses aforesaid before such clerk is permitted to act or be present at such examination.

Witness Jacob Williman, esquire, clerk of the said court at Charleston in the county aforesaid, the thirtieth day of October, in the year of our Lord one thousand eight hundred and seventy two, and in the ninety-eighth year of the sovereignty and Independence of the United States of America.

CAMPBELL & WHALEY,
Pl'tff's Att'ys.

[SEAL.] JACOB WILLIMAN, *C. C. P.*

Commissioner's oath.

You shall, according to the best of your knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examination and deposition of all and every witness and witnesses produced and examined, by virtue of the commission hereunto annexed,
upon the interrogatories now produced and left with you; and
171 you shall not publish, disclose, or make known to any person or

persons whatsoever, except the clerk or clerks by you employed and sworn to secresy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them to be taken by you and the other commissioners in the commission named, or any of them, by virtue of the said commission, until publication shall pass by rule or order of the said court. So help you God.

W'M F. LETT,
Commissioner.
SAMUEL B. MOWER,
Commissioner.

Clerk's oath.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take and write down, transcribe and engross, the depositions of all and every witness and witnesses produced before and examined by the commissioners or any of them named in the commission hereunto annexed, as far as you are directed and employed by the said commissioners or any of them to take and write down
172 and engross the said depositions or any of them; and you shall not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses or any of them to be taken or written down, transcribed or engrossed by you, or whereto you shall have recourse or be any ways privy, until publication shall pass by rule or order of the said court. So help you God.

The execution of this commission appears by the schedule hereto annexed.

W'M F. LETT,
Commissioner.
SAMUEL B. MOWER,
Commissioner.

Interrogatories.

U. S. circuit court.

GREGORY A. PERDICARIES
vs.
THE CHARLESTON GAS L. CO. ET AL.

In C. P. Charleston County.

DEWING, THAYER & CO.
vs.
THE CHARLESTON GAS L. COMPANY.

Deposition of witness taken and subscribed before us, William F. Lett and Samuel B. Mower, commissioners resident in the city of New York, county of New York, and in the State of New York, duly commissioned as such.

On the twelfth day of November, A. D. 1873, between the
173 hours of nine o'clock a. m. and four o'clock p. m. of said day, at the office of William F. Lett, No. 335 Broadway, in the city of New York and State of New York, in pursuance of a commission hereto annexed, and to be read as evidence in a certain case now pending in

the court of common pleas for Charleston County, State of South Carolina, wherein Dewing, Thayer & Company are plaintiffs and The Charleston Gas Light Company is *plaintiff*, Hiram Dewing, a witness personally known to us to be of lawful age, being to us at the time and place aforesaid produced, and being by us first duly sworn to testify the truth, the whole truth, and nothing but the truth in regard to the aforesaid, depose' as follows, to wit:

Interrogatories to be propounded to Hiram Dewing, a witness residing in New York, and to be examined on behalf of said Dewing, Thayer & Company:

1st question. What is your name, age, occupation, place of residence, and birth?

1st answer. To the first interrogatory he answers that—My name
174 is Hiram Dewing. My age is fifty-four years. I reside at Stamford. My occupation is merchant. I was born in the State of Connecticut.

2nd question. Are you one of the plaintiffs in this case of Dewing, Thayer & Co. vs. The Charleston Gas Light Company?

2nd answer. To the second interrogatory he answers that, Yes—I am one of the plaintiffs.

3rd question. Do you know your coplaintiffs?

3rd answer. To the third interrogatory, he answers that—I do.

4th question. If you answer affirmatively, state their names and places of residence and birth.

4th answer. To the fourth interrogatory he answers: Leonard C. Dewing; residence, New York; Emery Thayer, of Charleston, S. C.; Hiram Dewing, of Charleston, S. C.; Charles S. Huntoon, Charleston, S. C., and Henry D. Burkett, of Charleston, S. C. These were the names of plaintiffs and their residences at the time the stock was bought.

5th question. Were you or any of your coplaintiffs resident in the State of South Carolina during or at any time during the late war in the United States?

5th answer. To the fifth interrogatory he answers, Yes.

175 6th question. Were you or any of your coplaintiffs citizens of the north or northern States of the United States at the time mentioned in the fifth interrogatory? If yea, state their names and places of residence.

6th answer. To the sixth interrogatory he answers, Yes; Leonard C. Dewing lived in New York City, and no others.

7th question. Did you or any of your coplaintiffs purchase any shares in defendant's company during said war?

7th answer. To the seventh interrogatory he answers, I did.

8th question. If you answer affirmatively, state upon how many different occasions shares were so bought, and from whom, whether at public or private sale, and at and about what prices.

8th answer. To the eighth interrogatory he answers: I bought the defendant's stocks on five different occasions, from various parties at both private and public sale, at prices varying from twenty-six-and-a half to thirty two-and-an-eighth dollars per share.

176 9th question. Were these purchases for any one of your coplaintiffs, or for the partnership of Dewing, Thayer & Co.?

9th answer. To the ninth interrogatory he answers: All the purchases were made for the firm of Dewing, Thayer & Co.

10th question. If for Dewing, Thayer & Co., state who were the partners at the time of said purchase or purchases?

10th answer. To the tenth interrogatory he answers: Leonard C. Dewing, Emery Thayer, Hiram Dewing, Charles S. Huntoon, and Henry D. Burkett.

11th question. Did you or either of the plaintiffs know or have any reason to suppose or suspect that there was any infirmity in the title to the shares, or any of them so bought, arising from any attempt by the authority of the Confederate States to sequestrate or confiscate them or otherwise deprive the true owners thereof of their interest therein?

11th answer. To the eleventh interrogatory he answers: I did not. I don't think any of the coplaintiffs did; they had nothing to do with the purchase of the stock.

177 12th question. Do you know who was the owner of the stock you or any of the plaintiffs were buying?

12th answer. To the twelfth interrogatory he answers: I did not. I heard W. C. Dukes or John R. Dukes was the owner of 400 shares of it.

13th question. Was not other stock of this company put on the market and sold at or about the time of the purchase of the shares which the defendant refuses in this case to recognize?

13th answer. To the thirteenth interrogatory he answers: I believe there was; there was other lots of def't's stock struck off at auction at that time.

14th question. Did you not or did not any of the plaintiffs buy about the same time other shares your title to which is recognized by the defendants? If yea, and this other stock was bought under different circumstances, state the circumstances.

14th answer. To the fourteenth interrogatory he answers: I bought other shares at or about the same time the title of which is recognized by the defendants. The disputed stock was bought at auction

178 and the undisputed stock was bought at private sale.

15th question. Can you state how much was paid for the shares in question, and whether they were bought at a more advantageous price than that paid for the undisputed stock?

15th answer. To the fifteenth interrogatory he answers: I paid for 400 shares of the disputed stock thirty-two and an eighth dollars per share, and I paid for thirty-eight shares of the undisputed stock twenty-six and a half dollars per share, sixteen shares twenty-nine dollars per share, & 400 shares thirty-one dollars per share.

16th question. Was the price paid for the shares in question the full market value of the genuine stock at the same time?

16th answer. To the sixteenth interrogatory he answers: Yes; it was.

17th question. Did you make any inquiry at the office of the defendant in reference to the stock in question?

17th answer. To the seventeenth interrogatory he answers: I did in regard to the 400 shares of the disputed stock.

179 18th question. If you state the name of such person, and whether he was in the service of the defendant, and in what capacity, and state as circumstantially as you can the reply.

18th answer. To the eighteenth interrogatory he answers: I don't know his name, but he was acting as transfer clerk to the defendant; his reply was that the party selling the stock had more for sale and did not wish his name known.

19th question. State any other matter or thing that may benefit the plaintiffs as fully as if you were specifically interrogated thereto.

19th answer. To the nineteenth interrogatory he answers: I have nothing particular to say.

CAMPBELL & WHALEY,
Att'ys for Dewing, Thayer & Co.

Cross-interrogatories to be propounded to Hiram Dewing, a witness examined by and on behalf of Dewing, Thayer & Co.

1st question. Who during the years from 1st December, 1860, to 1s January, 1866, constituted the firm of Dewing, Thayer & Co.? Wha changes in said firm took place during that period? State all particu lars.

180 1st X-int. To the first cross-interrogatory he answers: On the first day of December, 1860, Leonard C. Dewing, Emery Thayer, Hiram Dewing, Charles S. Huntoon, Henry D. Burkett, constituted the firm of Dewing, Thayer & Co., which copartnership continued until April 20th, 1865, at which time Charles S. Huntoon and Henry D. Burkett withdrew from said copartnership, and Leonard C. Dewing, Emery Thayer, and Hiram Dewing continued the firm until March, 1866.

2nd question. During the above period where did each and every member of said firm reside, and where was the place or places of business of said firm? If in that time they or any of them made any change or changes in such residence, state fully all such made by each and every member of the firm.

2nd X-int. To the second cross-interrogatory he answers: Leonard C. Dewing resided in New York City during the whole time; Henry Thayer resided in the city of Charleston from 1860 until some time in 1861, after which time he was in Europe until the close of the war; after that, until 1866, he was in New York and Charleston, backwards and

181 forwards; Hiram Dewing resided in Charleston and Summerville, S. C., until the close of the war, 1865, after that in New York and Charleston, back and forward; Charles S. Huntoon resided from 1860 until 1862 in Charleston, and from 1862 in Maryetta, Georgia, and New York City until 1866; and Henry D. Burkett resided at Charleston in 1860 and 1861, the balance of the time in Europe and New York.

3rd question. Did said firm dissolve during the said period? Is not said firm dissolved now? If not, who compose the firm, & where do they carry on business now?

3rd X-int. To the third cross-interrogatory he answers: It was dissolved by the withdrawal of Charles S. Huntoon and Henry D. Burkett, April 20, 1865, and said firm is dissolved now. The firm continued under the same name until March 17, 1866. The partners were Leonard C. Dewing, Emery Thayer, and Hiram Dewing, for the settlement of the old firm's business.

4th question. Was it not in Charleston a matter of general notoriety that the Confederate States government sequestered the property

182 of what were then known as alien enemies, viz, the inhabitants of the Northern States maintaining their allegiance to the Government at Washington, (northerners?) Do you know that writs were served on business men supposed to be connected in trade or otherwise with such northerners, requiring them to disclose all property held by them for such northerners, and all debts due by them to the same? Did you or any member of your firm know or hear that the stock of such northerners in said gas-light co. had been sequestered or confiscated and sold by the Confederate States court or Confederate States government?

4th X-int. To the fourth cross-interrogatory he answers: It was. I do not know of any writs being served on business men supposed to be connected with northern interests, requiring them to make disclosures of property, &c. I did not know, but I heard, that defendants' stock had been confiscated and sold by order of the Confederate government.

5th question. If in your answer to the 13th interrogatory you
183 reply affirmatively, state particularly how you know what you state in said answer—the sources of your information. Do you know what you state of your own knowledge, or merely from information given to you by others?

5th X-int. To the fifth cross-interrogatory he answers: I was present at sale of the stock asked about. I heard it knocked down to a buyer by the auctioneer.

6th question. If in your answer to the 15th interrogatory you reply affirmatively, state the sources of your information; state fully what the so-called disputed stock sold for. Give the exact price of each lot of the disputed stock when sold at the Confederate States receiver's sale, when resold at future sales, and give the exact price of undisputed stock about the times of such sales, giving exact dates of such sales of undisputed stock.

6th X-int. To the sixth cross-interrogatory he answers: The disputed stock which I bought sold for thirty-two and one-eighth dollars per share. I know nothing of any other sales of disputed stock of defendants. The date of the ten shares of undisputed stock I bought January
14, 1863, at twenty-six dollars and a half per share; January 27th,
184 1863, twenty-eight shares at twenty-six and a half dollars per share; February 12th, 1863, sixteen shares at twenty-nine dollars per share; February 19, 1863, 400 shares at thirty-one dollars per share.

7th question. If you answer the 17th direct interrogatory affirmatively, state precisely of whom you made the alleged enquiry. Give exact name and office of the person of whom you made the alleged enqhiry.

7th X-int. To the seventh cross-interrogatory he answers: I made inquiry of the transfer-clerk in the office of the Charleston Gas Light Company, in the city of Charleston, S. C. I do not remember the name of the officer.

8th question. How did you pay for the shares in the 15th direct interrogatory mentioned? State particularly in what currency you paid for these shares. Did you pay in gold, in United States currency, (greenbacks,) in Confederate States currency, or by check on a bank? If so, on what bank—a bank in Charleston or elsewhere? Did you not know or hear that at that time the bank, in Charleston & the one on which you drew paid checks only in Confederate currency?

185 8th X-int. To the eighth cross-interrogatory he answers: I cannot say whether I paid in currency or in check. I did not pay in gold or in United States currency. I paid in Confederate currency or in a check on a bank. I knew at that time that the banks in Charleston paid checks only in Confederate currency.

HIRAM DEWING.
C. G. MEMMINGER,
For PERDICARIES.
H. E. YOUNG,
For GAS CO.

Sworn to and subscribed before us this twelfth day of November, A. D. 1873.

WM F. LETT, *Commissioner.*
SAMUEL B. MOWER, *Commissioner.*

CHARLESTON, S. C., *Sept. 30th*, 1873.

Mess'rs RUTLEDGE & YOUNG,
Def'd'ts' Att'ys:

DEAR SIRS: Please take notice that we object to your fourth cross-interrogatory because of its irrelevancy.

Yours resp'y,

CAMPBELL & WHALEY,
Def'd'ts' *Att'ys.*

186 CHARLESTON, *30th Oct.*, 1873.

We waive all errors and consent that the commission issue forthwith, and that it be usable by either party in the case of Perdicaries vs. Gas Light Co., &c., pending in the U. S. circuit court, or in the case of Thayer, Dewing & Co. vs. Gas Light Co., in State court.

RUTLEDGE & YOUNG.
MEMMINGER, JEWEY & PINCKNEY.
CAMPBELL & WHALEY.

STATE OF NEW YORK,
City and County of New York, ss:

We, William F. Lett and Samuel B. Mower, commissioners, resident in the city of New York, county of New York and State of New York, do hereby certify and make known that the foregoing deposition of Hiram Dewing was taken before us on the twelfth day of November, A. D. 1873, between the hours and at the place in the caption hereof above mentioned; that the examinations, responses, and statements of said deponent was reduced to writing in our presence by William F.
187 Lett, one of said commissioners, and by the said deponent sworn to and subscribed in our presence at the time and place aforesaid, and that said deponent resides at Stanford and does business in New York City, State of New York.

In testimony whereof we have hereunto set out hands and affix our seals at New York, in the State of New York, this twelfth day of November, A. D. 1873.

[SEAL.] W'M F. LETT, *Commissioner.*
[SEAL.] SAMUEL B. MOWER, *Commissioner.*

Fees for taking this deposition, swearing witness, and reducing to writing, thirty dollars. Paid by plaintiffs.

And after argument by C. G. Memminger, for plaintiff; W'm Whaley & McCrady & Son, counsel for Bank of Newberry; Rutledge & Young, for Charleston Gas Light Co.; Simonton & Barker, for People's National Bank, and J. B. Campbell, for John Fraser & Co., Dewing, Thayer & Co., the court rendered the following decree, which decree is in the words and tener following:

Decree.

188 In the circuit court of the United States of America for the fourth circuit, district of South Carolina. In equity.

GREGORY A. PERDICARIES
vs.
THE CHARLESTON GAS LIGHT CO. ET AL.

On the 30th August, 1861, the so-called Confederate States passed an act, in retaliation for the act of the 6th August of the United States, sequestrating, with few exceptions, the property of loyal citizens found within their territory. The proceeds of sale of such sequestered prop-

erty were paid into the Confederate treasury, to be held as an indemnity to those suffering loss under said act of the United States. Shortly thereafter a vigilance committee in Charleston reported to the officers charged with the execution of this act that certain shares in the Charleston Gas Light Company were held by such loyal citizens. Pursuant to the act, a writ of garnishment was served on the company, re-
189 quiring it to make return of its shares so held.

On the 27th September, 1861, the company made its return, setting forth that "fifteen of its shareholders were, as far as your deponent is informed, in the several cities of the United States hereinafter set forth, but (it) cannot pretend to determine whether or not they are alien enemies," and that those held four thousand two hundred & sixty-six (4,266) shares, and were entitled to four thousand two hundred and sixty-six (4,266) dollars as dividends of these; thirteen citizens of New York, Pennsylvania, and New Jersey were adjudged such alien enemies, and their shares (3,766) and their dividends ($3,766) sequestered, the shares being transferred to the Confederate States court on the books of the company, and the dividends being paid to the officers of the Confederate States. The names of the loyal stockholders were erased from the list of the company's stockholders.

After advertisements, giving the fullest notice of the nature of the sale, these shares were sold at public outcry and purchased in
190 various parcels by eighteen persons, to whom, on the order of Confederate States officers, scrip bearing the same number as those of the loyal stockholders were issued.

Subsequently 1,000 of these 3,766 shares were sold to other persons, viz, E. M. Beach, W'm Carrington, Dewing, Thayer & Co., G. T. Jackson, People's Bank of So. C'a, and H. H. Williams. Beach was a director, and attended all the meetings of the board which considered the orders of the Confederate States court.

The company followed the advice of eminent counsel in obeying the mandates of this court, and in fact the penalties for disobedience were very heavy, and no appeal possible except on giving heavy security. The holders of the sequestered stock alleged that the company colluded with the officers of the Confederate States in the sequestrations of the shares of the loyal stockholders, but failed absolutely to prove this. Shortly after the capture of Charleston, the military seized the works and property of the gas company as captured property and turned them over to the Treasury Department, by which they were restored on
191 the conditions that the loyal stockholders were paid or secured payment of all back dividends; that the names of those holding sequestered stock should be erased from the books of the company, & those of the loyal stockholders put in their places. In fact the property was not restored till these conditions were performed.

The holders of the sequestered stock claimed that their scrip be also acknowledged as genuine, and threatened to bring suits to establish their claims. The company not moving in the matter, the complainant filed his bill to enjoin such suits, and to have the rights of all the parties adjudicated, claiming that the sequestered stock was void, not only as issued in hostility to the United State, but also as contrary to the company's charter.

The holders of the sequestered stock, both at first and at second hand, were all made parties defendant. Against some the bill was taken pro confesso, and others filed answers, claiming that they were entitled to have the stock declared valid or to have damages allowed to them. The company was chartered by a public act, and the

192 new script was clearly void as an overissue of stock, contrary to the provisions of the charter, but I have not rested my decision on this ground alone; it has been so often decided "that acts in furtherance or support of the rebellion against the United States, or intended to defeat the just rights of its citizens, are null and void," that nothing more than the statements of the facts is necessary to shew that the holders of all the sequestered stock, both the purchasers at first hand as the purchasers at second hand, have no rights in the premises and are entitled to no damages.

It is therefore ordered, adjudged, and decreed that the script issued by the defendant, the Charleston Gas Light Co., in lieu of the shares of the loyal stockholders sequestered by the so-called Confederate States and now outstanding in the names of Thomas Barrett, Otis J. Chafee, Isaac S. Cohen, John Fraser & Co., Artemus Gould, A. H. Hayden, James Hope, B. D. Lazarus, M. C. Mordecai, B. O'Neill, Wilkinson & Fargo, Bank of Newberry, So. C'a, E. M. Beach, W'm Carrington, Dewing, Thayer & Co., G. T. Jackson, the People's Bank of So. C'a, and H. H. Williams are absolutely null and void, and the holders of them will surrender them to the company to be cancelled.

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The injunction heretofore granted in this case, enjoining all and singular the defendants in this cause, and the holders of the said certificates of stock issued in lieu of the sequestered stock, their agents, officers, servants, and attorneys, from bringing or prosecuting any suit or suits, action or actions, against the said Charleston Gas Light Company, for and on account of said certificates of stock or any of them, or of the stock purported to be represented thereby, or of the acts of the said company in creating the same, or for any damages claimed by reason of the issue of said stock, or any act or thing connected therewith or arising thereout, be made perpetual.

12 Dec., 1874.

HUGH L. BOND,
C't Judge.

Claim and allowance of appeal.

In the circuit court of the United States for the district of South Carolina, fourth circuit.—In equity.

194 GREGORY A. PERDICARIES, CHARLOTTE A. Brown, Jno. P. Murta, T. P. Code, W'm Hopper, Martha Steever,
vs.
THE CHARLESTON GAS LIGHT CO., THO'S BARRETT, Bank of Newberry, So. Ca., E. M. Beach, Virginia J. Cohen, administratrix of the estate of I. S. Cohen, W'm Carrington, O. J. Chafee, Joseph G. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. C. Mordecai, B. O'Neill, People's Bank of So. Ca., H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, William L. Trenholm. } Bill for injunction, &c.

Claim and allowance of appeal from decree thereon.

And now Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry

D. Burdett, William Carrington, George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, William L. Trenholm, Bank of Newberry, So. Carolina, Thomas Barrett, Virginia J.
195 Cohen, administratrix of I. S. Cohen, O. J. Chafee, Joseph G. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. C. Mordecai, B. O'Neill, People's Bank of South Carolina, H. H. Williams, M. Wilkinson, of the above-named defendants, after a final decree entered in this cause, come and show to the court that the matter in dispute exceeds the sum of two thousand dollars, and thereupon claim an appeal from the said final decree to the Supreme Court of the United States next to be holden at Washington on the second Monday in October next, and the same is accordingly allowed; and the appellants are ordered to serve the usual citation according to law.

Charleston, S. Ca., Feb'y 1, 1875.

J. U. NATHANS,
Sol'r for V. J. Cohen, Administratrix.
SIMONTON & BARKER,
For People's Bank.
JA'S B. CAMPBELL,
For other Def'ts.
W'M WHALEY,
For B'k of Newberry.

Allowance of appeal.

Allowed by—

GEO. S. BRYAN,
U. S. Judge, Dist. So. Ca.

1ST FEB'Y, 1875.

196 CHARLESTON, S. C., *Feb'y 1st*, 1875.

On behalf of the Charleston Gas Light Company, I decline to join in the foregoing claim of appeal, and consent to abide by the decree of the Supreme Court of the United States.

H. E. YOUNG,
Sol. Gas Co.

On behalf of B. O'Neill and G. T. Jackson, I decline to join in the foregoing claim of appeal.

M. P. O'CONNOR,
Solicitor.

And on the 3rd day of February, 1875, came into court Hiram Dewing, William Carrington, and People's Bank of So. Ca., and filed the following appeal-bond, which appeal-bond is in the words and tenor following:

Appeal-bond.

In the circuit court of the United States for the district of South Carolina, fifth circuit.—In equity.

GREGORY A. PERDICARIES ET AL.
vs.
197 THE CHARLESTON GAS LIGHT COMPANY, Tho's Barrett, Bank of Newberry, So. Ca., E. M. Beach, Virginia J. Cohen, administratrix of the estate of I. S. Cohen, W'm Carrington, O. J. Chafee, Joseph G. Fargo, Artemus Gould, Ja's Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. C. Mordecai, B. O'Neill, People's Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, George A. Trenholm, Theo. D. Wagner, James T. Welsman, Charles K. Prioleau, William L. Trenholm.

Know all men by these presents that we, Hiram Dewing, William Carrington, together with the People's Bank of South Carolina, are held and firmly bound unto Gregory A. Perdicaries, Charlotte A. Brown, Jno. P. Murta, T. P. Code, W'm Hopper, Martha Steever, in the full and just sum of three hundred dollars, to be paid to the said Gregory A. Perdicaries, his certain attorneys, executors, administrators, or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, by
198 these presents, sealed with our seals, and dated this third day of February, in the year of our Lord one thousand eight hundred and seventy-five.

Whereas lately at a circuit court of the United States, fifth circuit, district of South Carolina, holden at Charleston, in a suit depending between Gregory A. Perdicaries et al., complainants, and the Charleston Gas Light Company, Thomas Barrett, Bank of Newberry, S. C., E. M. Beach, Virginia J. Cohen, administratrix of the estate of I. S. Cohen, W'm Carrington, O. J. Chafee, Joseph G. Fargo, Artemus Gould, Ja's Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. O. Mordecai, B. O'Neill, People's Bank of South Carolina, H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, George A. Trenholm, Theodore D. Wagner, Ja's T. Welsman, Cha's K. Prioleau, W'm L. Trenholm, defendants, a decree was rendered against said defendants, and the said defendants, save the Charleston Gas Light Co., having obtained an allowance of appeal, and filed a copy thereof in the clerk's office of the said court, to re-
199 verse the decree in the aforesaid suit, and a citation directed to the said Gregory A. Perdicaries, citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next:

Now, the condition of the above obligation is such, that if the said appellants shall prosecute the said appeal to effect, and answer all damages and costs if they, the aforesaid appellants, fail to make their said plea

good, then the above obligation to be void; else to remain in full force and virtue.

HIRAM DEWING. [L. S.]
WILLIAM CARRINGTON. [L. S.]
W. GEO. GIBBS, *Cash'r.* [L. S.]
PEOPLE'S BANK OF SO. CA.

Sealed and delivered in presence of—
CHARLES S. CAMPBELL.

UNITED STATES OF AMERICA,
South Carolina District, Fourth Circuit:

Citation.

The President of the United States of America to Gregory A. Perdicaries, Charlotte A. Brown, Jno. P. Murta, T. P. Code, W'm Hopper, & Martha Steever, greeting:

200 You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington on the second Monday in October next, pursuant to a claim and allowance of appeal filed in the circuit court of the United States for the district of South Carolina wherein Gregory A. Perdicaries, Charlotte A. Brown, John P. Murta, T. P. Code, W'm Hopper, & Martha Steever are plaintiffs and the Charleston Gas Light Co., Tho's Barrett, Bank of Newberry, E. M. Beach, Virginia J. Cohen, administratrix of the estate of I. S. Cohen, W'm Carrington, O. J. Chafee, Joseph G. Fargo, Artemus Gould, James Hope, A. H. Hayden, G. T. Jackson, B. D. Lazarus, M. C. Mordecai, B. O'Neill, People's Bank of So. Ca., H. H. Williams, M. Wilkinson, Hiram Dewing, Emery Thayer, Charles S. Huntoon, Henry D. Burkett, George A. Trenholm, Theodore D. Wagner, James T. Welsman, Charles K. Prioleau, William L. Trenholm are defendants, to shew cause, if any there be, why the decree in the said appeal mentioned should not be corrected, and speedy justice done in that behalf.

201 Witness the honorable George S. Bryan, one of the judges of the circuit court of the United States for the district of South Carolina, the 10th day of July, in the year of our Lord eighteen hundred and seventy-five.

GEO. S. BRYAN,
U. S. Judge, Dist. of S. C.

We accept service for Gregory A. Perdicaries, Charlotte A. Brown, John P. Murta, J. P. Code, W'm Hopper, & Martha Steever.
MEMMINGER, PINCKNEY & JERVEY,
Atty's.

I accept service for the Gas Light Co., which joins in resisting the appeal.

H. C. YOUNG, *Sol.*

21 JULY, '75.

202 UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the circuit court.

I, J. E. Hagood, clerk of the circuit court of the United States for

the district of South Carolina, do hereby certify that the foregoing is a true and correct copy of the records, proceedings, and of the decree in the case of Gregory A. Perdicaries, complainant, against The Charleston Gas Light Company, Thomas Barrett, E. M. Beach et al., defendants, citizens of the State of South Carolina, rendered as aforesaid, together with all the proceedings had in case relating to the same.

Given under my hand and seal of the said court, at clerk's office in the city of Charleston, this the 22nd day of July, A. D. 1875.

[SEAL.] J. E. H

C. C. C. U. S., Dist. of S. C.

(Indorsement:) No. 171. Hiram Dewing, Emery Thayer et al., appellants, vs. Gregory A. Perdicaries, Charlotte A. Brown, et al. So. Carolina C. C. U. S. Filed 8th October, 1875.

Supreme Court of the United States.

OCTOBER TERM.

HIRAM DEWING,
EMERY THAYER, et al.,
Appellants,

vs.

GREGORY A. PERDICARIES,
CHARLOTTE A. BROWN, et al.,
Appellees.

No. 171.

Brief of P. PHILLIPS,
JAS. B. CAMPBELL
and WM. A. MAURY,
for Appellants.

January 11, 1878.

R. O. POLKINHORN, PRINTER, Washington, D. C.

Supreme Court of the United States.

OCTOBER TERM.

HIRAM DEWING,
EMERY THAYER, et al.,
Appellants,

vs.

GREGORY A. PERDICARIES,
CHARLOTTE A. BROWN, et al.,
Appellees.

No. 171.

Brief of P. PHILLIPS,
JAS. B. CAMPBELL
and WM. A. MAURY,
for Appellants.

At the time the late civil war broke out a large number of shares of the capital stock of the Charleston Gas Light Company was held by citizens of the loyal States. Of these shares, 3,766 belonging to the appellees and others were seized, sequestrated and sold as the property of enemies under and by virtue of certain proceedings (Rec. p. 718,) in a tribunal exercising jurisdiction under an act of the Confederate Congress, styled "an act for the sequestration of the estates, property and effects of alien enemies, and for the indemnity of citizens of the Confederate States, and persons aiding the same in the existing war with the United States." (R. p. 358.)

Of some of the shares thus sold, the appellants became the purchasers.

In this state of things the appellee, Gregory A. Perdicaries, filed his bill in behalf of himself and such other stockholders as might come in, &c., (pp. 1, &c.) setting up, that, at the time of said proceedings, he was the owner of 1,354 shares of the stock of the said Gas Company, then worth "at or near" $25 a share; that one John W. Caldwell, as receiver of the said court, sold the said 3,766 shares by public auction to various persons, to whom the said Gas Company issued certificates. The bill states the names of the purchasers and the number of shares bought by each, and that some of the original purchasers have sold to others, naming them, to whom the Gas Company has issued certificates, and that such purchasers had full notice before they bought, of the defects in the title of those from whom they derived title.

The bill avers that since the restoration of the authority of the United States in South Carolina "*the said Charleston Gas Light Company has recognized the validity of the claim of your orator and the other stockholders (whose shares had been seized and sold as aforesaid) to be re-instated to their rights as members and shareholders in the said Corporation, and have accordingly duly entered their names as such upon* its books," but that the parties holding the sequestrated stock still claimed to be stockholders, nevertheless; and that the effect of their claim is to surcharge the capital stock by 3,766 shares; whereas, such increase could only be effected in the way prescribed in the charter of the company. The bill charges that all of the purchasers of the sequestrated stock had full notice that the same had been seized and sold "without due legal authority," and prays that the said sales of stock may be vacated, and that the certificates issued to the purchasers and their assignees may be declared invalid and delivered up to be cancelled, and that the appellants and their co-defendants may be enjoined from selling any of the said shares or

rom suing to compel transfers or payment of dividends, &c., &c.

An injunction was issued, as prayed in the bill, and, the demurrers to the bill having been overruled, the appellant, William Carrington, answered (p.15) that he had no knowledge whatever of the alleged seizure and confiscation of stock, or that the President and Directors of the said company were ordered and compelled to issue new certificates of stock or do any act beyond their official authority. He states that about the 2d of May, 1862, he bought 100 shares of the stock of said company through his agents, H. W. Conner & Co., and was entirely ignorant of the fact (if a fact. which he does not admit,) that the shares bought by him had been sold by the Receiver, Caldwell, or by any other person than William H. Wesson, from whom he understood he had bought them, and who afterwards transferred them to him on the books of the Company. He says that on or about the 21st of January, 1863, he bought 50 shares of this stock from Wilbur & Son, auctioneers and brokers, who transferred the same to him. He denies notice or suspicion of any defect in his title to these shares; and relies on his valid contract with the Company, saying that he was under no duty to seek the name of his vendor, and bought in the customary way of trade, and that if, as he is informed and believes, the Gas Company were instrumental in having the said shares sequestrated, the plaintiff has his remedy against them.

The appellants, Hiram Dewing, Emery Thayer, Chas. T. Huntoon and H. D. Burkett, sometime partners under the firm name of Dewing, Thayer & Company, in their answer (p. 178) deny all knowledge of the seizure and confiscation of the stock in question, or that the President and Directors of the said company were compelled to issue new certificates, or do any act beyond

their authority: and say that about the 11th of February, 1863, they purchased from John S. Riggs, a Charleston broker, 400 shares of stock in said company, and that the next day when the appellant, Hiram Dewing, called at the office of the company to get a certificate of the shares bought, he inquired of the transfer clerk who was the person who had sold the stock, and the clerk "*refused to disclose the name, and gave as the reason that the vendor had more stock to sell and did not wish his name made known, and had so requested.*" They say they were entirely ignorant of the fact (if it be a fact) that said stock was sold by the decree of any court or by Caldwell as a Confederate receiver, or in any other quality, and that they did not know at the time who was the vendor, or that there was any flaw or defect in their title. They deny that their title is defective, and aver that there is a valid contract between them and the company; that they bought in open market and were under no duty to seek the name of their vendor, and that the broker from whom they bought sold the stock in the customary way of his business, after advertisement. They say, that if the Gas Company were instrumental in having the plaintiff's stock unlawfully appropriated he has his remedy against them.

The appellants, George A. Trenholm, Wagner, Welsman, Prioleau, and William L. Trenholm, in their answer (pp. 19, &c.), say that in April, 1862, they bought 100 shares of stock in said Gas Company, and received certificate therefor. They freely admit that they did hear, but not from the company, that the stock bought by them had been sold by order of the Confederate district court, by the receiver, Caldwell. They say they intended to buy and did buy 100 shares of stock, and that when they received the company's certificate, they paid their money on the faith of it, and deny that they would have taken title to said stock from Cald-

well, receiver, or any other than the company itself. They deny that the officers of the company acted under duress in issuing to them the said stock, and aver that they did not take the title of the Confederate States.

The appellant, The People's Bank, answered to the same effect as the aforegoing (pp. 24, 25), as did also the defendant, Bernard O'Neill (pp. 44, &c.) The Gas Company also answered, undertaking to give a detailed history of their connection with the sequestrated stock (pp. 28–35). They aver that in recognizing the sequestration proceedings, and the claims of purchasers of sequestrated stock, they yielded to paramount force; that the Confederate receiver sold the shares by public auction, and gave public notice by advertisement of the nature of the sales; that what was done in prejudice of northern owners of stock was void; that the purchasers from the receiver had full notice, that their assignees can stand on no better footing, and that they had full notice of or could have known, the nature of their titles by using ordinary diligence. They aver that they did not ear-mark the stock, because advised it would be a contempt of court to do so.

Replications to all the answers were filed. Upon the suggestion of the death of the defendant, O. J. Chaffee, his executrix and executor, Mary A. Chaffee and B. W. Walpole, were made parties; and upon the suggestion of the death of H. H. Williams, his administrator, H. H. Williams, was made a party.

The bill was taken for confessed as to the Bank of Newberry, E. M. Beach, Mary A. Chaffee, and B. W. Walpole, executrix and executor of O. J. Chaffee, deceased; A. H. Hayden, B. D. Lazarus, M. Mordecai, and H. H. Williams, administrator of H. H. Williams, deceased.

Process was not served on the defendants, Thomas

Barrett, Joseph C. Fargo, Artemus Gould, James Hope, G. T. Jackson, M. Wilkinson.

The bill was amended in an important particular. In the amended bill (pp. 22, 23) it is averred that the defendants, Dewing, Thayer & Company, W. Carrington, and John Fraser & Company, "had sued out writs of trespass on the case against the Charleston Gaslight Company, on account of the issue of the certificates of stock mentioned in the bill; and that they charge that the said certificates were issued fraudulently and in collusion," &c.; and that the said company "*is bound to make good the said certificates*, or to indemnify the said parties;" and it is averred, furthermore, "*that it is not competent to the said parties, or any of them, to withdraw the cognizance of the said charges from the jurisdiction of this honorable court.*" And the bill prays that as well the said defendants as their co-defendants *may be injoined* "*from bringing or prosecuting any suit or action against the said the Charleston Gaslight Company for and on account of the said certificates of stock, or any of them*," &c.; and "*that all questions involved in or arising from the issue of such certificates may be heard and adjudicated in this case, so as to avoid multiplicity of suits*," &c.; and, accordingly, *an injunction was issued as prayed.* (Rec. p. 108.)

By consent the cause was referred the 13th December, 1871, to Thomas M. Hanckel, Esq., as special referee, to take such testimony as any party in the cause might offer, without prejudice, however, to the right of any party to offer any other testimony he might deem material, (pp. 43, 44;) and on the 12th of November, 1873, the said referee made report of the testimony taken by him (pp. 48, 63.) The first witness examined was W. I. Heriot, the treasurer and general clerk of the Gas Light Company (p. 48.) He was examined as to all the details touching the Gas Company's connection with

the sequestrated stock; he refers to certain advertisements, and, as we presume, means those embraced by Exhibits B and C of the Gas Company's answer (p. 41,) but it is not clear. He says that stockholders were never refused access to the books of the Company, and that by an examination of the books of the Company, any one could trace the chain of transfers and learn in whose name any stock originally stood. He says (p. 53,) that the transfer-book of the Company shows that the 100 shares bought by W. H. Wesson at the first sale of the receiver, were transferred by Cohen, attorney for Wesson, to William Carrington, and that the 50 shares of sequestrated stock *bought by Wilbur & Son were* transferred to William Carrington, as attorney for Wilbur & Son, and that new scrip was issued to Carrington in the usual form. He says that of the shares bought by Boyd for the Bank of Newberry at the second sale of the receiver, 400 were transferred by John S. Riggs, as attorney for the Bank, to Dewing Thayer & Co., and new scrip, in the usual form, issued to them (p. 53.) He also testifies that in April, 1862, the receiver, gave T. D. Wagner, one of the firm of John Fraser & Co., an order for 100 shares, which is endorsed by Wagner in favor of Fraser & Co., and that new scrip was issued and delivered to a clerk of Fraser & Co. (p. 51.) He says he was elected transfer-clerk in 1859, and has continued in office without further election (p. 56.) He says that the Company's usage, never departed from in ordinary circumstances, is to require the surrender of the old certificate before the transfer of stock, but that the old certificates were not surrendeerd when the new certificates were issued for sequestrated stock, and that the new certificates were issued on the receiver's order, no certificates ever having been issued to the Confederate Government or court or receiver (p. 58;) that about the 11th June, 1861, the President of the Company instructed witness not to

make any transfer of the stock of northern stockholders; that he knows of no usage as to access of stockholders to Company's books; that no one has ever requested access except once since the war, and that no purchaser of sequestrated stock ever asked permission to examine Company's books (p. 58.) He says that there was a number of sales of gas stock "previous to, about the time of, and subsequent to the sales by Receiver Caldwell", (p. 58) and that the company paid dividends on the sequestrated stock so long as the stock stood in the names of the first purchasers or their transferees, (p. 58, 59.) He says that on the 20th February, 1863, Dewing, Thayer & Co. bought 400 shares from John R. Dukes, and that these shares were not sequestrated, (p. 59). The witness says that in the Charleston Courier of 11th April, 1862, there appears the following paragraph: "John W. Caldwell, receiver for the Confederate Court, sold 2,358 shares of Charleston Gas-Light Co. stock par $25, for $21½ to $22;" and that in the Charleston Courier of the 13th August, 1862, there appears the following paragraph: "Gas Stock.—Some fifteen hundred shares of the Gas-Light Co., of our city, were sold yesterday at auction, under the Sequestration Act, by John W. Caldwell, receiver, at $25.75; par value is $25 per share," (p. 60). Witness says that when Wesson & Wilbur & Son made the transfers to Carrington he, witness, knew the same was sequestrated stock, and that he knew the same of the stock bought by Dewing, Thayer & Co. from the Bank of Newberry, and of that bought by Fraser & Co., and that transferred to the People's Bank by Daly, (p. 60).

The appellant, William Carrington, was examined, (pp. 61–2). He produced two certificates, one for 100 and the other for 50 shares of gas stock. He applied to Conner & Co. to buy him 100 shares of gas stock. On receiving the scrip he paid the purchase money, having no knowledge who was the previous owner, and that with

such knowledge he would not have bought. Witness bought the 50 shares from Wilbur & Son. It was brought to the witness's store and offered him by W. M. Wilbur. Witness bought 200 other shares about this time and at about the same price as he gave for the sequestrated stock. He says he paid the full market value for the shares he bought from Conner & Co. Doesn't recollect what he paid Wilbur. Witness had heard, as matter of public notoriety, that the property of alien enemies was being sequestrated. Witness did not instruct Conner & Co. not to buy sequestrated stock because "he never knew that any gas stock had been sequestrated." For the same reason he never inquired as to the character of the stock sold him by Wilbur & Son.

Murdoch Matheson testified (p. 62) that he was a member of the firm of Conner & Co. in the year 1863. Has no recollection of ever having bought sequestrated stock knowingly; says that he would not have thought sequestrated stock the proper thing to purchase under an order to purchase gas stock.

A statement of Mr. Edward McCrady was read in evidence by consent. The witness relates the course he pursued, successfully, to fustrate attempts to enforce the Sequestration Act against clients of his, (p. 62–'3).

The appellant, Hiram Dewing, was examined in New York, under a commission, (pp. 110, 114.) He says he bought stock in the Gas Company, on "five different occasions," at prices varying from $26.50 to $32⅛ per share, for himself and his co-partners, and had no reason to suppose or suspect that there was any infirmity in the title to the shares; that he did not know who was the owner of any of the shares he bought, but heard that W. C. Dukes or John R. Dukes owned 400 shares of it. He says there were other lots of gas stock sold by auction at the time he bought, and that he bought shares at that

time, which the company regard as valid; that the disputed stock was bought at auction, and the undisputed at private sale, and that for 400 shares of the disputed stock he paid $32\frac{1}{8}$ per share; for 38 shares of the undisputed, he paid $26.50 a share; for 16 shares, $29 a share and for 400 shares $31 a share, these prices being the ful market value. As to the 400 shares of disputed stock, he says he made inquiry of the transfer officer of the company, who replied "*that the party selling the stock had more for sale, and did not wish his name known.*" He says, on cross-examination, it was generally known that property of alien enemies was sequestered, and that he did not know, but had heard, that defendants stock had been confiscated and sold by the Confederate Government. He says he paid Confederate currency for the shares bought by him.

Decree.

On the 12th of December, 1874, the court being of opinion that "both the purchasers at first hand, as the purchasers at second hand, *have no right in the premises, and are entitled to no damages*," decreed that the scrip issued by the Gas Company, in lieu of that held by loyal stockholders, was null and void, and should be surrendered to the company for cancellation, and perpetuated the injunction theretofore granted, restraining the defendants from suing the Gas Company in any manner touching the said stock, (pp. 115–117.)

Assignment of Errors.

1. It was error to entertain the said original and amended bills, because the record does not present a case in which it is allowable for one or more stockholders to sue instead of the corporation of which they are members.

2. Supposing that the appellants cannot be regarded as stockholders, it is clear, that those of them who bought

shares, in good faith, and without notice, are entitled to be made whole by the Gas Company as touching the damages sustained by them in consequence of the Company's putting forth, as genuine, certificates which were merely pretended and void; it was, therefore, error to deny the appellants relief in this behalf, after injoining them from obtaining such relief in the State courts.

3. It was error to injoin the appellants from prosecuting, in the State courts, their right at law, to have redress from the Gas Company, albeit the court was of opinion that the appellants had no valid claim to rank as shareholders.

4. It was error to decree that the appellants should surrender their certificates for cancellation, because the title acquired by the appellants is paramount to, and in complete displacement of, that under which the appellees claim.

Argument.

I.

The demurrers to the original bill should have been sustained. Perdicaries filed his bill, not for the redress of a wrong to himself alone, but to the whole body of the stockholders of the Gas Company. He, therefore, sues for himself, "and such other [illegible]"

time, which the company regard as valid; that the disputed stock was bought at auction, and the undisputed at private sale, and that for 400 shares of the disputed stock he paid $32\frac{1}{8}$ per share; for 38 shares of the undisputed, he paid $26.50 a share; for 16 shares, $29 a share and for 400 shares $31 a share, these prices being the ful market value. As to the 400 shares of disputed stock, he says he made inquiry of the transfer officer of the company, who replied "*that the party selling the stock had more for sale, and did not wish his name known.*" He says, on cross-examination, it was generally known that property of alien enemies was sequestered, and that he did not know, but had heard, that defendants stock had been confiscated and sold by the Confederate Government. He says he paid Confederate currency for the shares bought by him.

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holders, and that the company had erased from their books the names of the purchasers of the sequestered stock, and refused to recognise them any longer as shareholders, (p. 3.) The complainant also avers that he had applied in a friendly manner to the company to disregard the claims of the said pretended stockholders, to which he says the company would willingly accede, but that the said pretended shareholders hold certificates, and claim to be corporators, (p. 4.)

There is no averment or proof that Perdicaries made even a request to the company to file a bill to give a *quietus* to the claims of what he calls the "pretended shareholders," nor is there anything to show that the company would have been averse from taking such a course; on the contrary, their answer shows that they and Perdicaries were in complete accord.

Indeed, the record shows that the company were acting in full concert, in this suit with Perdicaries as is established by the company's entering into an obligation to pay the costs of Perdicaries if he should be cast, (p. 11) and by the letter of the company's counsel recommending the company to become surety for costs. (p. 69.)

Considering the character of the controversy, we think the interence irresistible that Perdicaries desired to withdraw it from the State courts, where it must needs have been carried on had the Company filed the bill, and that the Company was acting in sympathy and collusion with him in this evasion of the jurisdiction of the State tribunals.

It is well settled that in such a case a shareholder cannot sue for the redress of a corporate wrong.

18 Howard, 331. *Dodge* vs. *Woolsey*.

8 Wallace, 65, *Memphis City* vs. *Dean*.

II.

Assuming, for the present, that the appellants cannot rank as shareholders, it is difficult to understand upon what ground the court denied them redress for the deceit which had been practised on them by the Company, after restraining them from seeking that redress in the State courts.

It is true the bill avers that the appellants had notice that their title was derived from the sentence of the Confederate Sequestration Court; but, as we have seen, this is denied by the answers. The appellants, Carrington and Dewing, Thayer & Co., have, by their answers and the testimony of Carrington and Dewing, placed it beyond question that they are purchasers, *bona fide*, for full value, and without notice. They bought their shares in the customary way, paying the full market-price for them. Indeed, Mr. Dewing testifies that he *paid more for the disputed than the undisputed stock*, (R., 112, 114.) Neither of them bought from a Confederate official, and both of them parted from their money on the faith of the Company's certificate that they were entitled, respectively, to a given number of shares. Mr. Dewing, in his answer and in his testimony, says that when he called at the Company's office to get his certificate for the now disputed shares, he inquired who had sold the stock, having bought the same at auction, but the transfer-officer, to whom the inquiry was addressed, *refused to give the information, saying that the vendor had more stock to sell, and did not wish his name made known* (pp. 17, 112.) The evidence of the Company's transfer-clerk shows that Carrington and Dewing, Thayer & Co. did not buy from the Confederate receiver, and that the scrip issued to them was in the usual form, (p. 53,) and the Company, in ther answer, say that none of the certificates for the disputed stock was ear-marked.

Besides the disputed shares, Dewing, Thayer & Co., in February, 1863, bought 400 additional shares of gas stock, (p. 59.) As to the gas stock bought by him, Mr. Dewing testifies he did not know from whom he bought it, but heard that W. C. Dukes and John R. Dukes owned 400 shares of it. Heriot, the Gas Company's transfer-clerk, says that "there were a number of sales of gas-stock previous to, about the time of, and subsequent to the sales by Receiver Caldwell," (p. 58;) so that there was not so much as enough to excite the least suspicion in the buyer's mind that he was getting a questionable title.

The court will take notice that the transactions in the case at bar were after the usual manner, that is to say, the bargain for the stock was struck, and then the seller, instead of delivering to the buyer his certificate, coupled with a power to make the transfer, made the transfer himself, and gave the buyer a certificate in his, the buyer's name, on receipt of the purchase money. So that it would rarely happen that parties dealing with stock brokers, as did Carrington and Dewing, Thayer & Co., and not expecting to pay for stock until certificates in their own names were delivered, would know, or so much as think to inquire, who were the owners of the stock. So as that they received the certificates of the company in their names it was immaterial to them in what name or names the stock had previously stood.

We deem it unnecessary to do more than refer to the introduction into the cause by the appellees of the Confederate receiver's notices of sales of stock, and of two instances of newspaper references to the receiver's sales of stock, for we cannot conceive that this evidence has so much as a tendency to bring notice home to the appellants.

Now, if anything is well settled, it is that a corporation

is responsible to an innocent holder of invalid scrip issued by its transfer officer, and, *a multo portion*, is a corporation liable, in such circumstances, when the invalid certificates have been issued, as in this case, by the command of the corporation itself.

11 Wallace, 369; *Bank* vs. *Lainer.*
10 Wallace, 604; *Merchant's Bank* vs. *State Bank.*
34 New York, 30; *N. Y. & N. H. Rlwy Co.* vs. *Schuyler.*
30 Conn., 231; *Bridgeport Bank* vs. *N. Y. & N. H. Rlwy Co.*

As an element of *aggravation* in the cause, we would refer to the unseemly zeal shown by the Gas Company in interfering with the rights of their Northern shareholders. This appears by a letter from the president of the company, dated 11th March, 1861, (p. 75,) written before the passage of the Sequestration law, and by a sort of *sequestration* resolution of the company recited in a letter of the president of the company, dated 10th July, 1861, (pp. 76, 77), also written before the passage of the Sequestration law. The company also made a voluntary report of the stock on their books in the names of northern citizens (pp. 105, 107). The pretence of duress and of dread of the pains and penalties of the Sequestration law is transparent, and absurd in the light of the evidence (pp. 62, 63) that other persons and corporations resisted successfully attempts to enforce the Sequestration law against them. Had the Gas Company been as zealous in behalf of Mr. Perdicares and the other complainants during the war as they have been in this suit, the present controversy could not have arisen, and if this court decrees that the Gas Company are responsible to the appellants it will be a satisfaction to know that the company themselves are the authors of their misfortune.

De Ros v Richmond 18 Grant 338
Davis v Bk England 2 Bing 403
In Re Bahia LR 3 2 B 550

III.

The Court below transcended its jurisdiction in injoining the appellants from proceeding at law in the State Court.

4 Cranch, 179, *Diggs* vs. *Wolcott.*

The amended bill presents no case which would authorize a Court of Chancery in putting its interdict on the appellants' proceedings at law. It was the Gas Company and not Perdicaries or his associates who would be harrassed by a multiplicity of suits, and while such a bill might, perhaps, have been entertained at the suit of the Gas Company, it should not have been entertained at the suit of Perdicaries.

IV.

But it was error in the Court below to decree that the appellants were not stockholders.

We maintain that the effect of the sentence of the Confederate Sequestration Court was to divest and extinguish the title of the appellees to the stock theretofore held by them in the Gas Company. At the time the proceedings in which these sentences were rendered took place, the Confederate States held the position of an independent belligerent with all the rights incident to that relation, and, consequently, with the right to seize and appropriate the property of their enemies. It is a solecism to say that while the war was flagrant the Confederate States were governed by the Constitution and laws of the United States. The operation of that Constitution and those laws was for the time being suspended, and the relations of the people of the United States to those of the seceded States had passed out of the domain of municipal law into that of international law. The Government of the United States had repudiated all responsibility to foreign nations for the acts of the people of

the States seceded and had been compelled to suspend all the operations of government in those States; in short, there was, for the time being, an abdication by the National Government as to those States.

Vattel says that "a civil war *breaks the bands* of society, or, at least, *suspends their force and effect;*" that "it produces in the nation TWO INDEPENDENT PARTIES, *who consider each other as enemies, and acknowledge no* common judge;" that "those two parties, therefore, must necessarily be considered as constituting, at least for a time, TWO SEPARATE BODIES, TWO DISTINCT SOCIETIES;" that "HAVING NO COMMON SUPERIOR to judge between them, they stand in PRECISELY THE SAME PREDICAMENT AS TWO NATIONS WHO ENGAGE IN A CONTEST AND HAVE RECOURSE TO ARMS." (Book 3, ch. 18, § 293.) Again, says the same eminent authority: "Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. *Besides, who shall judge them? Who shall pronounce on which side the right or the wrong lies?* ON EARTH THEY HAVE NO COMMON SUPERIOR." Again he says: "Thus there exist in the State two separate bodies who pretend to absolute independence, *and between them there is no judge.* THEY DECIDE THEIR QUARREL BY ARMS, AS TWO DIFFERENT NATIONS WOULD DO." (B'k 3, ch. 18, § 295.)

It was in the same broad and philosophic spirit that Mr. Burke, in his memorable speech on conciliation with America, said: "It looks to me *narrow* and *pedantic* to apply the ordinary ideas of criminal justice to this great public contest. *I do not know the method of drawing up an indictment against a whole people.*" Mr. Webster, on a great occasion, speaking of the battle of Bunker Hill, said: "The battle of Bunker Hill was attended with *the most important effects beyond its immediate results as a military engagement.* It created at once a state of open public war. *There could no longer be a question of proceeding*

against individuals as guilty of treason or rebellion. That fearful crisis was past. The appeal now lay to the sword, and the only question was whether the spirit and the resources of the people would hold out till the object should be accomplished." Works, Vol. 1, pp. 68, 69.

Burlamaqui, speaking of "an insurrection of a considerable part of the state against the reigning prince," says "*thus the government is then dissolved*," the state is actually divided into two *distinct* and *independent* bodies, so that we are to form here the same judgment as in the former, [*i. e.*, "as in public wars between two States, always distinct."] Vol. 2, Pt. 4; Ch. 7; p. 209; § XXXVI.

The doctrine laid down by these publicists is, that, while a civil war lasts, there is an absolute extrusion of the Metropolitan Government from the district or territory with which it is at war. It is fallacious to say that municipal and belligerent rights may co-exist. Such is ever the *pretension* of the Metropolitan Government, but its practice is always in accordance with the principle for which we contend. Thus, when by the act of Congress of 13th July, 1861, it was declared that when the President should proclaim that an insurrection had broken out in any part of the country, it should, thereupon, be unlawful to hold commerce or communication with such district, by land or water, under pains and penalties, England and France promptly notified the United States that they would *not respect the law.* The United States yielded, and thenceforward contented themselves with the imperfect, expensive, and precarious measure of blockade.

So, when the United States proposed to the great Powers to accede to the article of the treaty of Paris abolishing privateering, those Powers denied the right of the United States to bind the Confederate States.

The attempt to close the harbor of Charleston by sink-

ing obstructions, evoked a remonstrance from Great Britian.

Lawrence's Wheaton, 587, note, Ed. 1863.

It is a mistake to say that belligerent rights are the results of concessions from the Metropolitan government. Those rights come *ex jure gentium*. The late civil war like our war of revolution, and the war between Spain and her South American dependencies, and all other civil wars, shows that neutral powers decide *for themselves* when to recognize the revolutionists as belligerents.

3 Wheat., 610, *U. S.*, vs. *Palmer;*

4 *Ib.*, 52, La Divina Pastora;

7 *Ib.*, 337, La Sanctissima Trinidad.

It would be in vain to look for a concession of belligerent rights by the Metropolitan government, for with belligerency come rights and advantages which lift the revolutionists from the grade of rebels and insurgents to the high ground of an independent power. One of the distinguished Counsel who represented the United States at Geneva, would have been glad to prevail on the arbitrators to treat the Confederates as upon a level with the Sepoy rebels or the Commune, but there is nothing in the opinions of the Arbitrators to countenance such a doctrine. It was in keeping, for Ayala, the Grand Prévôt of the Spanish Army in the Low Countries, under Philip II, to say in his treatise, *De jure et officiis belli*, "*quod de latronibus et prædonibus diximus, idem et de rebellibus dicendum est, qui justi hostes dici non possant.*" But the world has out lived the doctrine of the *jus divinum* of kings, and with it the doctrine, that the parties to a civil war are criminals and outlaws. Says the eminent living publicist, Bluntschli: "The government is always prompt to declare those who resist its authority, traitors and rebels. *But when the Criminal Courts have lost their power, and, de facto, war is waged for political ends,* CRIMINAL

LAW IS SILENT, AND THE PARTIES ARE IN POLITICAL AND MILITARY ASPECTS, ENEMIES." Cited in 3 Am. Law Rev., 405.

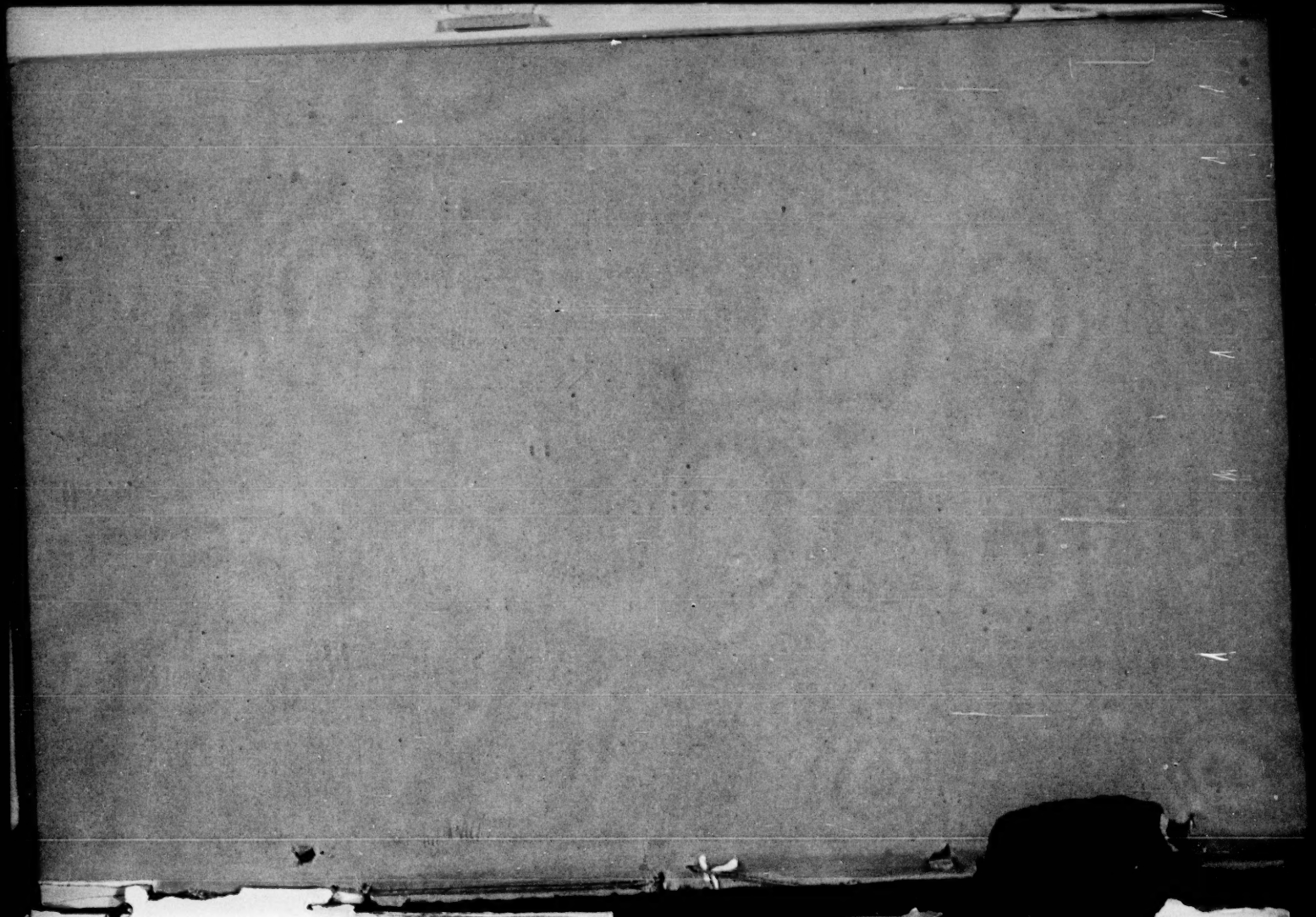
We maintain, therefore, that the confiscation of the shares of the appellees was the exercise of an undoubted war power, and must be respected as the act of a government invested with full power and jurisdiction for the time being. The sentences of the court of sequestration stand upon the same ground as the sentences of the Confederate prize courts, the ignoring of which by the United States, to the prejudice of a subject of any foreign power, would undoubtedly lead to serious international complications.

If the commission of the Confederate Government to take the lives of citizens of the United States in authorized warfare, gave practical, and, in the opinion of many jurists, legal immunity from prosecution for murder or treason after the war closed, is it not a solecism to say that the titles of purchasers of property of northern citizens, seized and sold by the Confederate Government in the exercise of a conceded belligerent power, ceased to have validity after the war ended ?—*in other words, that the Confederate Government had the power to take the lives, but not the property of citizens of the United States.*

22 Gratt., 628; *Newton* v. *Bushong.*

In conclusion, we insist that the appellees are no longer shareholders, and so, that their bills should have been dismissed.

P. PHILLIPS,
JAS. B. CAMPBELL,
WM. A. MAURY.



IN THE

SUPREME COURT OF THE UNITED STATES.

HIRAM DEWING, EMORY THAYER ET AL.,

APPELLANTS,

vs.

G. A. PERDECARIES ET AL. Appellees

Points and Authorities for the People's Bank of South Carolina, ~~*a Defendant in Error.*~~ Appellant

---

In 1863, this Bank became the purchaser, in the ordinary course of business, at private sale, of one hundred shares of the Stock of the Charleston Gas Light Company, the property of Henry Daly, and standing in his name on the books of the Company. 1

The shares were represented by a certificate of stock in the name of Daly, which certificate bore the seal of the Company, attested by its proper officers. There was nothing on the face of the certificate showing any taint on the title, and all the officers of the Bank testify that they never knew nor had any suspicion that there was any defect in the title to the stock. 2

Relying on the seal of the Gas Company and on the certificate, the Bank purchased; after the contract of sale was concluded, and before it was consummated, the certificate was delivered to the Gas Company, was cancelled and a new certificate issued to the People's Bank, declaring that it was the holder of one hundred shares in said Company of the value of twenty-five dollars each. On the faith of this, the Bank paid its money.

It is alleged, that this certificate covered certain shares

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3 non-resident stockholders, of which an attempt had been made to deprive the real owners, and the decision of the Circuit Court has ordered the stock to be returned to the former owners thereof. The question is who should lose the money paid for this stock.

1. The Bank is a wholly innocent party, paying its money on the faith of the action of the Gas Company.

If we suppose that both parties, the Bank and the Gas Company, were equally innocent, then the familiar rule applies that when one or two innocent parties must suffer, he
4 must bear the loss who contributed however innocently to the wrong. The action of the Gas Company, first in certifying to Daly's ownership, and second in issuing the certificate to the Bank, was the motive cause for its entrance into and completion of the contract of sale.

2. But the Gas Company was not an innocent party. Every fact connected with this stock was known to the Company. It knew of the original sale. It was aware that the rights of stockholders had been set aside, and that these shares without their knowledge had been sold. It knew by
5 whom these shares had been bought, and how they were distributed; knew that there was an irregularity about Daly's shares; knew that the Bank was a purchaser, and yet gave no hint by which the Bank could have protected itself.

In N. Y. and N. H. R. R. Co. vs. Schuyler, 34 N. Y., 49, it was said: "Another important legal proposition in the case is so clear upon principle, and so distinctly settled by authority, that nothing but confusion can flow from its discussion. It will bear no more than plain enumeration.

A corporation is liable to the same extent, and under the
6 same circumstances, as a natural person for the consequences of its wrongful acts, and will be held to respond in a civil action at the suit of an injured party, for every grade and description of forcible, malicious, or negligent tort, or wrong which it commits, however foreign to its nature, or beyond its granted powers the wrongful transaction or act may be."

Phil. and Balt. R. R. Co. *vs.* Quigley, 21st Howard, 209, and cases cited.

Green *vs.* Omnibus Co., 7 C. B. (N. S.), 302.

In re Bahia and San Francisco R. Co (Eng L.R. 3 Q.B. 584)
Hart vs Gold Mining Co (L.R. 5 Ex 111)

In a case of Magwood *vs.* Railroad Bank, 5 So. Ca. Reports, 379, an action was brought against the Bank for transferring stock standing in the name of a trustee, who had sold the stock without authority. After elaborate argument, the Court held the Banking Corporation liable in equity to the extent of the damage sustained by the *cestui que trust*, by reason of its co-operation in the unlawful act of the trustee. 7

It must be borne in mind that the bill in this case made the Bank a party defendant, that an injunction was sought for and obtained against the Bank forbidding suit against the Gas Company, and that it has no means of redress but in this suit. 8

In Chanly *vs* Latouche, 2 Sch. and Lef., 718, it was held that a co-defendant may insist that he shall not be obliged to institute another suit for a matter which may then be adjusted between the defendants.

See, also, Ancker *vs.* Levy, 3 Stobhart E., 210.

Bank *vs.* Rose. 1 Rich. Eq., 294.

Theodore G. Barker
for Peoples Bank
Appellant

SUPREME COURT

UNITED STATES.

DEWING, ET AL., Appellants,

vs.

PERDICARIES, ET AL., Appellees.

Error to Circuit Court for South Carolina District.

ARGUMENT FOR THE APPELLEES,

G. A. Perdicaries and The Charleston Gas Light Company.

MEMMINGER, JERVEY & PINCKNEY,
For Perdicaries.

RUTLEDGE & YOUNG,
For the Gas Light Company.

CHARLESTON, S. C.
G. W. ROUSE & J. D. PARRY, PRINTERS,
No. 26 Chalmers Street.
1877.

IN THE

SUPREME COURT

OF THE

UNITED STATES.

OCTOBER TERM, 1877.

No. 171.

DEWING, ET. AL., APPELLANTS,
vs.
PERDICARIES, ET. AL., APPELLEES.

Error to the United States Circuit Court for the Eastern District of South Carolina.

ARGUMENT ON BEHALF OF THE APPELLEES, PERDICARIES AND THE CHARLESTON GAS LIGHT COMPANY.

This is a bill in equity filed by GREGORIE A. PERDICARIES, a citizen of New Jersey, against the company, and divers persons holding stock, bought some at first hand, and others at second hand, from the Confederate States, during the late war; to have such stock declared null and void, and to compel the holders of the same to surrender the certificates to be cancelled.

The Charleston Gas Light Company, is a body corporate, under the laws of the State of South Carolina; and its charter contains the following clause in regard to the increase of its stock, viz:

"That the Charleston Gas Light Company shall have power, from time to time, to increase their capital stock to any amount not exceeding three hundred thousand dollars, (now $1,000,000, *AA.*, 1857, *XII Stat. So. Ca.*, 628,) including their present capital, whenever a majority of the stockholders present at a general meeting, or the board of directors, by their authority, shall determine: *Provided*, that the said stock shall not be increased at any one time, in sums of less than ten thousand dollars, and such additional stock shall be divided rateably among the stockholders, in proportion to their shares in the capital stock of the company, at the time of such increase; but, in case any stockholder or stockholders, should not desire to take his or their share of such increased stock, the same shall be allotted among the remaining stockholders, or books may be opened for the purpose of obtaining additional subscribers to such increased stock, in such manner as the company may deem expedient; and in no case shall the members who are unwilling to take their share in such increase of stock, be assessed to contribute to or make up such increase of stock."—*AA.* 1850, *XII, Stat. So. Ca.*, 54.

In December, 1860, its stock consisted of 30,664 shares of the par value of $25 per share, and from that date, there has been no increase of stock according to the above provisions.—*Trans. p.* 56.

On 6th August, 1861, the United States as a measure to suppress "the present insurrection," passed an act confiscating all property used or employed in "aiding, abetting, or promoting such insurrection."—12 *Stat. U. S.*, 319.

On 30th August, 1861, the Confederate States passed an act which the preamble declares to be "in retaliation for the act of 6th August, of the United States." It is set out in full as Exhibit A. to the answer of the Gas Light Company.—*Trans. p.* 35–41.

Section one sequesters all the property of "alien enemies" held within the Confederate States, since 21st May, 1861, and directs the same to be held "for the full indemnity of any true and loyal citizen or resident of these Confederate States, or other person aiding said Confederate States in the prosecution of the present war between the said Confederate States and the United States of America, and for which he may suffer any loss or injury under the act of the United States to which this act is retaliatory," etc.; and excepts from its provisions the citizens of certain States, (Delaware, Maryland, Kentucky, etc.) who do not "commit actual hostilities against the Confederate States, or aid and abet the United States in the existing war against the Confederate States."

Sections two and three make it the duty of every citizen of the Confederate States holding such property "speedily to give information of the same, and on any one failing so to do, impose a penalty of a fine not exceeding $5000, and imprisonment not longer than six months, with the liability to be sued and subjected to pay double the value of such property."

Sections six and twelve direct that the receiver appointed under the act shall take possession of such property, and empowers the court having jurisdiction to sell it.

Sections thirteen and fourteen direct that the proceeds be paid into the Confederate Treasury, and appoint a commission to hear claims of those aiding the Confederate States, injured by the United States, and to pay these from such proceeds.

On the 17th July, 1862, the United States passed their final Act of Confiscation.—12 *Stat. U. S.*, 590.

Of the 30,664 shares in the company, from December, 1860, to December, 1864, 26,013 were held by citizens of Carolina, and 4651 by citizens of other states.—*Trans. p.* 57.

The evidence in this case is from the fact, that the books of the Confederate States District Court were captured and taken to Washington, and some of them apparently lost, necessarily fragmentary, but it sufficiently appears from it

That "The Charleston Vigilance Committee furnished to the 'Receivers for sequestration' the names of and the shares held by Northern stockholders."—*Trans. p.* 79.

The company furnished no information on the subject. *Trans. pp.* 57, 58, 59.

The C. S. District Attorney filed petitions against these Northern stockholders alleging them to be alien enemies, and praying the sequestration of their stock, and of the dividends due thereon.—*Trans. pp.* 71–72, 100–102.

Writs of garnishment were served on the president of the Gas Company; and on 27th September, 1861, he made his returns thereto, and, answering the interrogatory propounded to him, said: (*Trans. p.* 72.)

"That the following stockholders of the company reside, as far as your deponent is informed, in the several cities of the United States hereinafter set forth, but he cannot pretend to determine whether they are or are not alien enemies, viz:

STOCKHOLDERS.	RESIDENCE.	SHARES.	DIVIDENDS.
Brown, Frederick	Philadelphia, Pa.	500	$ 500 00
Broadwell, M. M.	St. Louis, Mo.	100	100 00
Code, Theophilus.	Philadelphia, Pa.	125	125 00
Dungan, C. B.	" "	5	5 00
Dungan, E. H.	" "	9	9 00
Elliott, Hugh, Trustee,	" "	62	62 00
Faitoute, W. S.	Newark, N. J.,	132	132 00
Hoy, James	Trenton, N. J., or Fifth Avenue Hotel, N. Y.	1,408	1,408 00
Hopper, Wm.	Philadelphia, Pa.,	31	31 00
Humphrey, G. D.	St. Louis, Mo.,	250	250 00
Kreischer, B. & neph.,	New York,	35	35 00
Murta, John P.	Philadelphia, Pa.,	24	24 00
Perdicaries, G. A.	Trenton, N. J.,	1,354	1,354 00
Steever, Martha	Philadelphia, Pa.,	81	81 00
Terry, Lucius H.	St. Louis, Mo.,	150	150 00
		4,266	$4,266 00

Of the above shares, all except those of Broadwell, Humphrey, and Terry were sequestered: in other words, of the 4266 shares attached, 3766 were sequestered, and 500 were not; the president of the company making the identical return in each case.

Upon the orders for sequestration and for the "delivery of gas stock and dividend" being served on the president of the company, he called a meeting of his directors on 18th February, 1862, and submitted the matter to them. A resolution was passed directing the president "to consult W. D. Porter, esquire, attorney at law, for instructions to act on said order of the court."—*Pp.* 63 *and* 64.

Mr. Porter was an eminent and able member of the Charleston Bar.—*P.* 63.

On 11th March, 1862, another meeting was held, and the opinion of Mr. Porter submitted. It advised compliance with the order, so far as paying to the receiver the dividends sequestered, and "in relation to a transfer of the stock on the books of the company, we think you should await a special order of the court."—*Pp.* 64 *and* 65.

The president was ordered to conform to the instructions as set forth above, and to pay over and transfer under the directions of the attorney, W. D. Porter, esq.—*P.* 65.

The order for transfer was subsequently made.—*Pp.* 58, 79, 80.

The transfers were made from the then holders to the Confederate Court.

The court, on 29th March, 1862, ordered the sequestered shares sold, and the president of the company to "issue new certificates to the purchasers of said stock."—*P.* 79.

The Receiver advertised the sale as follows:

"IN THE CONFEDERATE COURT.
SOUTH CAROLINA DISTRICT.

By virtue of an order to me directed, by the Honorable the District Court of the Confederate States, for the District of South Carolina, under the 'Sequestration Act,' I will expose at public outcry, at Wilbur's Sales Rooms,

corner State and Chalmers Streets, on Thursday, the 10th April, at 11 o'clock,

2,358 shares Charleston Gas Light Company.
100 shares Elmore Insurance Company.
300 shares Mount Pleasant Ferry Company.
Conditions Cash.

JOHN W. CALDWELL,
April 1st. *Receiver.*"

—

"IN THE CONFEDERATE COURT.
SOUTH CAROLINA DISTRICT.

By virtue of an order to me directed, by the Honorable the District Court of the Confederate States, for the District of South Carolina, under the 'Sequestration Act,' I will expose at public auction, at the Broker's Exchange, corner State and Chalmers Streets, on Tuesday, the 12th instant, at 11 o'clock,

1,408 shares Charleston Gas Light Company's stock.
Conditions Cash.

(Signed.) JOHN W. CALDWELL,
August 7th, 1862. *Receiver.*"
Trans. p. 41.

These advertisements (*Trans. p.* 49) appeared in the Charleston Courier, respectively from the 1st to the 10th April, and from the 7th to the 12th August, 1862, inclusive.

On the 10th, the stock so sold, fetched $21½ to $22, other shares sold about the same time for $25.

Those sold on 12th August, fetched $25.75, other shares sold about that time for $26.—*Pp.* 60, 102.

The buyers of the stock at these sales were, on the 10th April:

	Shares.
Thomas Barrett	200
Otis J. Chaffee	400
Isaac S. Cohen	100
John Fraser & Co	100
Henry Daly	100

Isaac Harris.....200
Artemus Gould.....200
A. H. Hayden.....100
James Hope.....200
B. D. Lazarus.....122
M. C. Mordecai..... 86
B. O'Neill..... 50
Jas. H. Taylor..... 50
W. H. Wesson.....100
Charles Weissinger.....100
Wilkinson & Fargo.....200
W. B. Wilbur..... 50

2,358

And at the sale on 12th August:
Bank of Newberry, So. Ca.....1,408

3,766

To the several buyers of the said sequestered stock, the receiver, gave orders for the number of shares purchased respectively, of which the following is a fair example, to wit:

"The President of the Charleston Gas Light Company will please issue scrip to the order of T. D. Wagner, for one hundred shares stock.

(Signed.) JOHN W. CALDWELL,
Receiver.

100.

Charleston, 11th April, 1862."

Which was endorsed as follows, to wit:

"Issue scrip for the within, in the name of John Fraser & Co.

(Signed.) T. D. WAGNER."

Pp. 49–53, 87–91.

Of these buyers, some sold the stock later, viz:

Shares.

I. Harris sold to E. M. Beach.....200

W. J. Wesson sold to Wm. Carrington.....100
W. B. Wilbur sold to said Wm. Carrington..... 50
Bank of Newberry sold to Dewing, Thayer & Co.....400
Charles Weissinger sold to G. T. Jackson.....100
Henry Daly sold to the People's Bank 100
James H. Taylor sold to H. H. Williams..... 50

1,000

Trans. pp. 52–54.

Mr. Beach was a director at the time of his purchase, and had full access to the books of the company. Stockholders had such access also, and were never refused it. (*Trans. pp.* 53, 58). None of these buyers of the sequestered stock at second hand, asked to examine the books of the company. By such examination, they could have traced the chain of transfers, and learnt in whose name any stock originally stood, and who at any time had been holders thereof. Thayer, Dewing & Co., alone of these buyers, at second hand, assert that they made enquiry of some clerk in the defendant company's office for the name of the vendor of the stock they then bought, but failed to prove this.

Upon the issue of new stock to these buyers, the old stock being in the hands of the holders at the North was not surrendered; and thus, there was outstanding 3766 shares in duplicate.

There was no power in the company to resist the decree of the Confederate Court, and no possibility of staying the operation of the decree except by appealing and giving bond, as usual, in double the amount involved. The value of 3766 shares at an average sum of $25, is $94,150. So the bond to act as a *supersedeas*, would have been in $188,300, (*Trans. p.* 63). Mr. Davis did not appoint the judges of a supreme court of the C. S. The law provided for their appointment, and he could have appointed them at any moment; and there cannot be a reasonable doubt but that lawyers who would have accepted the appointment, would have decided as Judge Magrath did.

In two cases, those of Perdicaries and Hoy, active resistance to the sequestration was made by Messrs. Memminger, Jervey & Wilkinson. The constitutionality of the act of sequestration, was denied by them, and the question strenuously argued by Mr. Wilkinson of the firm.—(*P.* 59.) Mr. Memminger was a director of the Gas Light Company.—*Pp.* 56, 76.

The return to the writ of garnishment made by the president of the Gas Company, (*pp.* 72, 77, 79,) shows that he concealed no facts in his knowledge, but submitted them all to the court.

On the 18th February, 1865, the Federal forces captured Charleston, and consequently all the property of the Gas Company.

On 26th January, 1866, the United States Army seized and took possession of such property as captured property, and refused to restore it till the company restored the Northern stockholders to the possession of their stock, as perfectly as if no attempt had been made to divest them of it; and by closing the accounts of the holders of the stock under the order of the Confederate Court, so that their names should disappear from the company's book. This was done on 9th March, 1866, and the property restored on the 8th May, 1866. On the 14th May, 1866, the stockholders ratified the acts of the directors in the premises.—*Trans. pp.* 93, 95, 97, 99.

The company took no further steps in the premises: and on 25th September, 1866, the company having "omitted and neglected to do so," (*p.* 14,) Perdicaries in behalf of himself and other Northern stockholders, in the same plight, filed his bill to have the shares issued under the orders of the Confederate Court, surrendered, to be cancelled, and to prevent the holders thereof from bringing suit for the transfer of the same, and the company from making such transfers, etc. The holders of such shares claimed that they were valid, and were threatening to bring suits to establish their alleged rights, and to force the company to recognize the validity of their shares.

From the beginning of the war, till just before its close, the City of Charleston and the greater part of South Carolina, was in the possession and under the complete control of the Confederate Government, and to a great extent under military rule. There was no power therein capable of protecting any citizen resisting the orders of this government. The appellants in this case were, during the war, residents of Charleston, and citizens of the State of South Carolina. None of them took any part in opposition to the war.

The number of shares in excess of those legally issued, is exactly that of those issued under the "Sequestration Act" of the Confederate States.

The bill in this case seeks not only to cancel the stock improperly issued, but also to remove doubts as to the stock of the company; to quiet and settle rights in regard to the same; and to prevent multiplicity of suits.

To it demurrers were filed, and these were argued in the Circuit Court at Charleston, before Ch. J. Chase, and District Judge Bryan, at the spring term of 1869.

On the 6th June, 1869, the Chief Justice filed the following decree:

"The bill in this case was filed by the plaintiff in his own behalf, and in behalf of any others who might come in and contribute to the expenses of the suit.

"It is stated that the shares in the Charleston Gas Light Company stock, belonging to the plaintiff and others, were sequestered under an act of the Confederate Government, and sold during the civil war. It is also stated that in lieu of those shares, other shares of a corresponding amount were delivered to the purchasers; and the prayer of the bill is, that the certificates thus issued, may be declared invalid; that they may be ordered to be delivered up to be cancelled; that the defendants may be restrained from bringing suit for transfer; and that the company may be restrained from allowing such transfer, and from the payment of dividends.

"To this bill there is a general demurrer, filed by part of the defendants, and a motion to dissolve the injunction already granted.

"The only question in the case is, whether the parties are entitled to any relief in this court, upon the case made by the bill. This question is two-fold: first, whether the plaintiffs have a case of equity; second, whether this court has jurisdiction of the controversy between the plaintiff and defendants.

"It is not claimed that the transfer of shares, sequestered and sold under the authority of the Confederate Government, conveyed exclusive title to the defendants. It has been repeatedly decided, both by the Circuit Courts and by the Supreme Court of the United States, that all acts of the Confederate Government, or the government of a State hostile to the United States and prejudicial to the rights of citizens of States adhering to the Union are void, and convey no title.

"Perdicaries is a citizen of an adjoining State. It is proper to add that the Gas Light Company has acted upon the principle just stated. It is true that it erased from the books the names of the original stockholders whose stock was sold under the sequestration act, and issued new certificates to the purchasers. But this was during the war. Since the war ended, it has reinstated the names of the original stockholders, and recognizes fully their right to dividends. The certificates issued to the purchasers from the Confederate receiver are, however, still outstanding.

"Perdicaries, as owner of original stock, claims the interposition of the court against the defendants, who, in virtue of their purchases from the receiver, assert a claim to be recognized as stockholders upon an equality with himself.

"It is very clear that Mr. Perdicaries has a good case in equity. If the whole stock had belonged to stockholders residing in other States, and had been sold under the sequestration act, and it can be maintained, after the war, that the purchasers are entitled to recognition equally with the original stockholders, it is very clear the value

of the stock to the latter would be reduced just one-half.

"This shows very clearly the equity of Mr. Perdicaries. There is no way by which he can be relieved except by a court of equity.

"But it is insisted that the company itself should bring suit, and that Perdicaries being only a stockholder, cannot be heard in this court. We do not agree to this view. It is not denied that if the company had refused to institute proceedings the stockholders might do so. There is no principle of equity administration which denies to a stockholder protection in a court of equity. It is true that the corporation represents the corporate interests; and in this case it would, perhaps, be most appropriate that the corporation should bring a suit for its own protection, and for the protection of the rights of the original stockholders. But it has at least *neglected and omitted to do so.* Under such circumstances, any stockholder may proceed. We think the bill filed in this case by the plaintiff for his own benefit, and for the benefit of his co-stockholders, is properly conceived, and that upon the case made by it, the plaintiff is entitled to the relief asked. The demurrer must be overruled, and the motion to disolve the injunction must be denied. The defendants will have leave to answer under the rule."

On the the case was fully argued before Judges Bond and Bryan, in the Circuit Court at Charleston, and on the 12th December, 1874, the following decree was filed:

"On the 30th August, 1861, the so called Confederate States, passed an act in retaliation for the act of 6th August, of the United States, sequestrating, with few exceptions, the property of loyal citizens found within their territory. The proceeds of the sale of such sequestered property, were paid into the Confederate Treasury, to be held as an indemnity to those suffering loss under said act of the United States. Shortly thereafter, a vigilance committee in Charleston, reported to the officers charged with the execution of this act, that certain shares in the

Charleston Gas Light Company were held by such loyal citizens. Pursuant to the act, a writ of garnishment was served on the company, requiring it to make return of its shares so held. On the 27th September, 1861, the company made its return; setting forth that fifteen of its stockholders "reside, as far as your deponent is informed, in the several cities of the United States, hereinafter set forth; but it cannot pretend to determine whether or not they are alien enemies;" and that these held four thousand and two hundred and sixty-six shares, and were entitled to $4266 as dividends. Of these, thirteen citizens of New York, Pennsylvania, and New Jersey, were adjudged such alien enemies, and their shares 3766, and dividends $3766, sequestered; the shares being transferred to the Confederate States Court on the books of the company, and the dividends being paid to the officers of the Confederate States. The names of the loyal stockholders were erased from the list of the company's stockholders.

"After advertisements, giving the fullest notice of the nature of the sale, these shares were sold at public outcry, and purchased in various parcels by eighteen persons; to whom, on the order of the Confederate States officer, scrip bearing the same number as those of the loyal stockholders, were issued.

"Subsequently, 1000 of these 3766 shares were sold to other persons, viz: E. M. Beach, Wm. Carrington, Dewing, Thayer & Co., G. T. Jackson, Peoples' Bank, and H. H. Williams. Beach was a director, and attended all the meetings of the board which considered the orders of the Confederate States Court.

"The company followed the advice of eminent counsel in obeying the mandates of this court, and in fact, the penalties for disobedience were very heavy, and no appeal possible, except on giving heavy security. The holders of the sequestered stock alleged that the company colluded with the officers of the Confederate States in the sequestration of the shares of the loyal stockholders, but failed absolutely to prove this.

"Shortly after the capture of Charleston, the military seized the works and property of the Gas Company, as

captured property, and turned them over to the treasury department; by which they were restored on the conditions that the loyal stockholders were paid or secured payment of all back dividends; that the names of those holding sequestered stock should be be erased from the books of the company, and those of the loyal stockholders put in their places. In fact the property was not restored till these conditions were performed.

"The holders of the sequestered stock claimed that their scrip be also acknowledged as genuine, and threatened to bring suits to establish their claims. The company not moving in the matter, the complainant filed his bill to enjoin such suits, and to have the rights of all parties adjudicated; claiming that the sequestered stock was void, not only as issued in hostility to the United States, but also as contrary to the company's charter.

"The holders of the sequestered stock, both at first and second-hand, were all made parties defendant. Against some, the bill was taken *pro confesso*, and others filed answers, claiming that they were entitled to have their stock declared valid or to have damages allowed to them. The company was chartered by a public act; and the new scrip was clearly void as an over-issue of stock, contrary to the express provisions of the charter. But I have not rested my decision on this ground alone.

"It has been so often decided 'that acts in furtherance or support of the rebellion against the United States, or intended to defeat the just rights of its citizens, are null and void,' that nothing more than the statement of the facts is necessary to show that the holders of all the sequestered stock, both the purchasers at first-hand, and the purchasers at second-hand, have no rights in the premises, and are entitled to no damages.

"It is therefore ordered, adjudged, and decreed, that the scrip issued by the defendant, the Charleston Gas Light Company, in lieu of the shares of the loyal stockholders, sequestered by the so called Confederate States, and now outstanding in the names of Thomas Barrett, Otis J. Chaffee, Isaac S. Cohen, John Fraser & Co., Artemus Gould, A. H. Hayden, James Hope, B. D. Lazarus, M. C.

Mordecai, B. O'Neill, Wilkinson & Fargo, Bank of Newberry, E. M. Beach, Wm. Carrington, Dewing, Thayer & Co., G. T. Jackson, the Peoples' Bank of South Carolina, and H. H. Williams, are absolutely null and void, and the holders of them will surrender them to the company to be cancelled.

"The injunction heretofore granted in this case, enjoining all and singular the defendants in this cause, and the holders of the said certificates of stock issued in lieu and stead of the sequestered stock, their agents, officers, servants, and attorneys, from bringing or prosecuting any suit or suits, action or actions, against the said Charleston Gas Light Company, for and on account of said certificates of stock, or any of them, or of the stock purporting to be represented thereby, or of the act of the said company in creating the same; or for any damages claimed by reason of issue of said stock, or any act or thing connected therewith, or arising thereout, be made perpetual.

HUGH L. BOND,
Circuit Judge.

December 13th, 1873."

The first point to be considered are the demurrers.

They are general demurrers, and therefore "it is sufficient (for the complainant) to show that his complaint is to any extent right."

Bagshaw vs. Eastern N. R. Co., 7 Hare, 129.
Livingston vs. Stoney, 9 Pet., 658.

They admit also "every thing well set forth which was necessary to support the demand in the bill."—*Ib.*

The facts as stated in the bill, are substantially what have been set forth as to the orders of the Confederate Court.

That Caldwell, as a receiver of that court, had sold the 3766 shares seized by its order.

That Schnierle, "then acting as president of the said company, did issue" to the buyers of said seized shares, certificates for the amount so bought respectively.

That the holders of the shares so bought, claim that they are entitled to all the rights of stockholders.

That thus the capital stock of the company is surcharged by these 3766 shares, causing a loss to the complainant alone, in capital, of $3000, without mentioning the dividends and the claims of his co-complainants.

That this increase and surcharge of the capital, was made illegally, and contrary to the charter of the company.

That he had applied to the company to disregard the claims of the "said pretended stockholders, to which they would willingly accede; but they affirm that the pretended stockholders have in their possession the certificates of stock issued to them as heretofore said, and claim that they bind the company to admit the holders thereof."

Those demurring, object that Perdicaries and his co-stockholders in the plight with himself, cannot maintain this suit. That it should be brought by the company.

The general rule, no doubt, is that a suit against a wrong-doer, whose acts operate to the prejudice of all the stockholders, should be brought by the company, as representing all the interests involved, and not by any individual stockholder.

Angell & Ames, Corporations, § 312.
Robinson vs. Smith, 3 Paige, 233.

But as a court of equity never suffers a wrong to go unredressed for the sake of form merely, if it appears that the directors refuse to bring such suit, or if the corporation is still under the control of those who should be

defendants to the suit, or if the directors are acting contrary to the charter of the company, the stockholders who are *the parties in interest*, may sue in their own names, making the corporation a defendant, either solely or jointly, with the directors.

Angell & Ames, l. c., § § 312, 391-393.
Robinson vs. Smith, 3 Paige, 233.
New York and New Haven R. R. Co. vs. Schuyler, 17 New York, 596.

The point is very fully considered by V. C. Wigram, in the case of *Foss vs. Harbottle*, 2 *Hare*, 461. He says:

"It was not, (*p.* 490,) nor could it successfully be argued, that it was a matter of course for any individual members of a corporation, thus to assume to themselves the right of suing in the name of the corporation. * * The only question can be whether the facts alleged in this case, justify a departure from the rule which *prima facie* would require that the corporation should sue in its own name." * * * * * * *

"The first objection (*p.* 91) taken in the argument for the defendants, was that the individual members of the corporation, cannot in any case sue in the form in which this bill is framed. During the argument, I intimated an opinion, to which, upon further consideration, I fully adhere, that the rule was much too broadly stated on the part of the defendants. I think there are cases in which a suit might properly be so framed. Corporations like this, of a private nature, are in truth little more than private partnerships; and in cases which may easily be suggested, it would be too much to hold that a society (492) of private persons associated together in undertakings, which, though certainly beneficial to the public, are nevertheless matters of private property, are to be deprived of their civil rights, *inter se*, because, in order to make their common objects more attainable, the crown or the legislature may have conferred upon them the benefit of a corporate character. If a case should arise of injury to a corporation by some of its members, for which no adequate remedy remained, except that of a suit by individual corporators in their private characters, and asking in

such character the protection of those rights to which in their corporate character they were entitled, I cannot but think that the principle so forciply laid down by Lord Cottenham, in Wallworth vs. Holt, (4 *M. and C.*, 635,) and other cases, would apply, and the claims of justice would be found superior to any difficulties arising out of technical rules respecting the mode in which corporations are required to sue." * * * * * * *

"The second ground of complaint may stand in a different position: I allude to the mortgaging in a manner not authorized by the powers of the act. This, being beyond the powers of the corporation, may admit of no confirmation whilst any one dissenting voice is raised against it. * * * * * * * *

This distinction is found in the case of Preston vs. The Grand Collier Dock Company, (11 *Sim.* 327). * *

I follow, with entire assent, the opinion expressed by the Vice-Chancellor in Preston vs. The Grand Collier Dock Company; that, 'if a transaction be void, and not merely voidable, the corporation cannot confirm it, so as to bind a dissenting minority of its members.'"

In this case, the demurrers were sustained, as the transactions complained of, may possibly be regarded beneficial by the company, "*and admit of confirmation.*"

In *Cunliffe vs. Manchester Canal Company*, 2 *R & M.*, 480 *note*, V. C. Shadwell, at the suit of a single stockholder, enjoined a company from acting contrary to its charter.

In *Ware vs. The Grand Junction W. W. Co.*, 2 *R. & M.*, 483, Lord Brougham, in a similar case, granted a similar injunction.

In *Bagshaw vs. The E. N. R. Company*, 7 *Hare*, 114, Bagshaw for himself and others, brought suit against the company and the directors to restrain them from taking, contrary to the charter, funds subscribed to build a branch road, and misapplying them to the building of the main trunk. The company and the directors demurred.

Curia.—(Sir James Wigram, V. C). "As it is suffi-

cient upon general demurrer for the plaintiff to show that his complaint is to any extent right, I think the plaintiff in this case has shown that the directors have misapplied and are about to misapply the £100,000 I have alluded to." * * * * * *

"No majority of the shareholders however large, could sanction the misapplication of this portion of the capital. A single dissenting voice would frustrate the wishes of the majority. Indeed, in strictness, even unanimity would not make the act lawful."

"This appears to me to take it out of the case of *Foss vs. Harbottle*, to which I (*p.* 130) was referred. That case does not, I apprehend, upon this point, go further than this: That, if the act, though it be the act of the directors only, be one which a general meeting of the company could sanction, a bill by some of the shareholders on behalf of themselves and others to impeach that act, cannot be sustained."

The demurrers were overruled; and, on appeal, this decision was sustained by Cottenham, L. C.—2 *Mac. and Gordon*, 392.

In *Colman vs. E. Co. Railroad Company*, 10 *Beav.*, 1, and in *Solomons vs. Laing*, 12 *Beav.*, 339, Lord Langdale, M. R., at the suit of a shareholder, in behalf of himself and others, enjoined the companies from acting contrary to their charters; and in the first case, he held, further, that the fact that the shareholder bringing the suit, was acting at the instigation of a rival company, did not affect his rights in the matter.

In none of these cases does it any where appear that the suing stockholder first called on the company to bring suit, and began suit only on their refusal to do so.

In *Solomons vs. Laing*, 12 *Beav.*, 377, the point was made directly in the following circumstances: The directors of company A, paid certain of its funds to company B, for purposes wholly unauthorized by its (A's) charter. A stockholder in company A filed a bill against company A, and against company B, to have this payment declared illegal, and to compel company B to refund the money.

Company A demurred generally, and insisted that the plaintiff must at all events show that the company have refused to sue.

Lord Langdale, M. R., overruled the objection. "It is quite manifest that when any individual has the right to sue one, he must of necessity, in order that justice may be done, have the right to sue those who are partners in the wrong so alleged to be done."

In *Ward vs. Society of Attorneys*, (1 *Collyer*, 370, 1844,) Sir Knight Bruce, V. C. goes further; and though 1313 shareholders desired to have the charter changed; and therefore resolved to surrender their then charter and accept a new one; and only 21 shareholders opposed this; yet at the suit of two of these, he enjoined the rest of the society from proceeding in their project till the case should be fully heard.

In *MacDougall vs. Gardiner, L. R.*, (20 *Eq.*, 390, 1875), V. C. Malins states the rule very clearly and fully:

"With regard to the question whether the plaintiff can or cannot maintain this suit, there have been so many authorities cited, and so many principles adverted to, and I have myself had occasion to consider the subject so often—some of the decisions cited being mine—that I may consider the law to stand thus: In all matters of internal regulation of a company, where the company has acted within its own powers, an individual shareholder cannot sustain a bill in this court relating exclusively to such internal affairs of the company. If, therefore, the directors are acting in one mode, and a shareholder thinks it would be much more wise to act in another mode in a matter of internal arrangement, he must be bound by the will of the majority; and his proper course is, not to come to this court for relief, but to call a meeting of the shareholders, in pursuance of the constitution of the company, to take the decision of the majority, which must be binding upon him. That is the rule when the directors are acting *within the line of their authority.* That was decided in the cases of *Foss vs. Harbottle*, (2 *Hare*, 461), *Mozley vs. Alston*, (1 *Ph.*, 790), and in a case of *Lord vs. Company of Copper Miners*, (2 *Ph.* 740),

which all go upon the same principle; which is, that as to the internal arrangements of the company, a bill cannot be sustained. I take it to be equally clear that *if a company exceeds the limits of its authority in the exercise of its powers;* that is, *goes beyond its constitution;* as, for instance, if a coal mining company were to embark in smelting iron; then any individual shareholder can sustain a bill to prevent their going beyond their powers."

The decision in this case was reversed on appeal, (1 *Ch. Div.* 14), but the rule laid down by the Vice-Chancellor was confirmed.

James, L. J.—"Nothing connected with the internal disputes between shareholders is to be made the subject of a bill by one shareholder on behalf of himself and others unless there be something *illegal*, oppressive, or fraudulent; *unless there is something ultra vires* on the part of the company, *qua* company, or on the part of the majority of the company."

Mellish, L. J.—"In my opinion, that is the rule that is to be maintained, viz: That laid down in *Foss vs. Harbottle*, (2 *Hare*, 461), and *Mozley vs. Alston*, (1 *Ph.* 790). Of course if the majority are abusing their powers, and are depriving the minority of their rights, that is an entirely different thing: then the minority are entitled to come before this court to maintain their rights."

Baggallay, J. A., concurred.

In *Russell vs. Wakefield*, (*L. R.* 20 *Eq.*, 482), Sir George Jessel, M. R., speaking of this rule, says: "As I have said before, the rule is a general one, but it does not apply to a case where the interests of justice require the rule to be dispensed with."

The result of the English cases thus seems to be: that while it is a general rule, which in furtherance of justice is dispensed with, that to redress a wrong to the company itself, and consequently to all its stockholders, the company should sue, and the stockholder should not sue unless the company, on application from him, refuses to

sue: still in matters which are in violation of the charter, and which not even the largest possible majority can make legal, any stockholder can bring suit—more properly on behalf of himself and others, but even by himself only.

The result of the American cases seems the same.

In South Corolina, it is seen in the John's Island Church case, (*Wilson vs. Presbyterian Church*, 2 *Rich. Eq.*, 192), where the minority (three) checked by suit the majority (twelve) from misappropriating the funds of the church, contrary to the endowment, without calling on the corporation to bring suit.

And also in the Wappetaw Church case, (*Attorney-General vs. Society*, 8 *Rich. Eq.*, 190), where again without calling on the society to sue, those aggrieved by the action of its officers in applying its funds to purposes other than allowed by the charter, brought suit to enjoin them; and were sustained.

To the same effect, is *Stevens vs. The Rutland and Burlington Rd. Co.*, decided by Ch. Bennett, of Vermont, in a very able and elaborate opinion. It is to be found in a note to the *American Edition of Hare's Reports*, (2 *Hare*, *p.* 129, *ss*). It is too long to cite.

In *Robinson vs. Smith*, (3 *Paige*, 230), Ch. Walworth says:

"Until very recently, (*p.* 231), but few incorporated companies, in which individuals had any direct pecuniary interest, existed in England, except corporations for charitable purposes. And this court would very reluctantly interfere with the concerns of mere municipal corporations, where a sufficient remedy is afforded by *mandamus* or *quo warranto*, or by an indictment against the officers of the corporation for any abuse of their powers by which the public has sustained an injury. But since the introduction of joint stock corporations, which are mere partnerships, except in form, the principles which

were formerly applied to charitable corporations in England, may be very appropriately extended to such companies here. The directors are the trustees or managing partners, and the stockholders are the *cestui que* trusts, and have a joint interest in all the property and effects of the corporation. (See *Wood's Inst. B. I. Ch.* 8, *p.* 110; 11 *Coke's Rep.* 98, *b*). And no injury the stockholders may sustain by a fraudulent breach of trust, can, upon the general principles of equity, be suffered to pass without a remedy. In the language of Lord Hardwicke, in a similar case, 'I will never determine that a court of equity cannot lay hold of every such breach of trust. I will never determine that frauds of this kind are out of the reach of courts of law or equity; for an intolerable greivance would follow from such a determination.'"—2 *Atk. Rep.*, 406.

He overruled the demurrers filed; but the defendants, the directors, having assigned *ore tenus* as further causes of demurrers; that there was no allegation in the bill; that the company had refused to sue, or that the defendants are the present directors having control of the company; says:

"Even if a sufficient excuse is shown by the bill for bringing suit in the name of the stockholders, the corporation should be before the court as a party defendant. I think at least one of these objections is well taken, and that the corporation should be before the court either as complainant or as a defendant."

And gave the plaintiff leave to amend.

The Supreme Court has two cases on the same subject, viz:

Dodge vs. Woolsey, 21 *How.*, 331. Woolsey, a citizen of Connecticut, filed a bill in the Circuit Court against Dodge, a tax-gatherer of Ohio, the Bank of Cleveland, and its directors, all residents of Ohio, to enjoin the collection of a tax claimed to be unconstitutional.

Dodge pleaded *inter alia* that the complainant had not applied to the bank to bring the suit, and been refused.

The evidence showed (*p.* 340) that Woolsey had asked the bank to resist the tax: That the bank passed a resolution, declaring that it concurred with Woolsey as to the illegality of the tax, but in consideration of the obstacles in the way of testing the law in the State courts, it could "not consent to take the action" requested.

Curia.—Wayne, J. "It is no longer doubted either in England or the United States, that courts of equity, in both, have a jurisdiction over corporations, at the *instance of one or more* of their members, to apply preventive remedies by injunction, to restrain those who administer them from doing acts which would amount *to a violation of charter*, or to prevent any misapplication of their capitals or profits, which might result in lessening the dividends of stockholders, or the value of their shares, as either may be protected by the franchises of a corporation, if the acts intended to be done, create what is in law denominated a breach of trust. And the jurisdiction extends to inquire into, and to enjoin, as the case may require that to be done, any proceedings by individuals, in whatever character they may profess to act, if the subject of complaint is *an imputed violation of a corporate franchise*, or the denial of a right growing out of it, for which there is not an adequate remedy at law." * *

"The result of the cases (*p.* 343) is well stated in *Angell & Ames*, §§ 391–393.

"'Though the result of the authorities clearly is, that in a corporation when acting within the scope of and in obedience to the provisions of its constitution, the will of the majority must govern; yet *beyond the limits of the act of incorporation, the will of the majority cannot make an act valid;* and the powers of a court of equity may be put in motion at the instance of a *single shareholder*, if he can show that the corporation are employing their statutory powers for the accomplishment of purposes not within the scope of their institution.'

"Yet it is to be observed that there is an *important distinction* between this class of cases, and those in which there is no breach of trust, but only error and misapprehension, or simple negligence on the part of the directors."

Dodge argued that in this case, the answer of the directors of the bank to Woolsey's application, was merely "an error of judgment", and that the bank and Woolsey were in collusion, and that "it is a mere contrivance to create a jurisdiction where none fairly exists."—*P.* 340.

The court held (*p.* 345) that the refusal by the directors was legally, "a breach of trust"; and sustained the suit.

It is clear that in this case, the question involved was not a violation of the bank's charter. There can be no doubt but that by a unanimous vote of its stockholders, and perhaps by the vote even of a majority, the bank could have submitted to the tax, and agreed to pay it. There are many circumstances supposable; e. g. in case of the country being involved in war, and strained for means, which would make such submission even praiseworthy. Certainly the submission involved no violation of charter, and was not "beyond the limits of the act of incorporation."

It was therefore under the rule laid down in the English cases, and given by Angell & Ames; a case where the application to the company to sue, and its refusal to do so, were necessary to give the stockholder the right to sue in his own name.

Beyond this, the decision does not go; and the language and reasoning of the court, specially the resting on the English cases, sustain the rule, that when the company is still under the control of those who should be defendants, (as the wrong doers), or when the directors are acting contrary to the charter of the corporation, the stockholders may bring suit in their own names, without any application to the company to do so; provided only, the company be made a party to the suit.

And reasonably so; because the notice which the application would necessarily give, might enable the directors to consummate an intended wrong.

We have devoted so much space to the above, because in the following case, while the *decision* does not affect the principle involved, yet the *language used* may lead to

the conclusion that in every case a stockholder must first apply to the corporation, and receive its refusal to interfere, before he can bring suit. The case is that of

Memphis vs. Dean, 8 *Wall.*, 73. The *decision* of the court in this case is as follows: (Nelson, A. J.)

"The result of our opinion is, (*p.* 76), that the only question that it was competent for the complainant as a stockholder of the Memphis Gas Company, to compel the directors to present to a court of justice, was that involving its exclusive right, under the charter, to furnish the City of Memphis with gas; and as that had been presented to a court of competent jurisdiction in a suit then pending, he is disabled according to the settled rule on this subject, from instituting a suit in his own name in another court."

Thus the decision was, that because another suit on the same question, was pending in another court, the plaintiff could not bring a second suit.

The court however, in the opening of the opinion says:

"The judgment (*p.* 73) of the court in the case of *Dodge vs. Woolsey*, 18 *How.*, 331, 345, authorizes the stockholders of a company to institute a suit in equity in their own name against a wrong-doer, whose acts operate to the prejudice of the interests of the stockholders, such as diminishing their dividends and lessening the value of their stock, in a case where application has first been made to the directors of the company to institute the suit in its own name, and they have refused. This refusal of the board of directors, is essential in order to give to the stockholder any standing in court, as the charter confers upon the directors representing the body of stockholders, the general management of the business of the company. There must be a clear default, therefore, on their part, involving a breach of duty, within the rule established in equity, to authorize a stockholder to institute the suit in his own behalf, or for himself and other stockholders who may choose to join."

In these words the court is not treating the subject *ex professo*, and though its language is strong; still it is

hardly possible that it intended to overrule what it said in Dodge vs. Woolsey, or to limit the conclusions deducible from that case. Had it intended this, it would most naturally have referred to the case with some dissent. On the contrary, it rests what it says here, entirely on Dodge vs. Woolsey, and nowhere intimates the slightest limitation on what that case lays down.

Recur to the facts in the present case. They are that

1. The directors in 1862, in violation of the charter, increased the capital stock by 3766 shares.

2. This increase was made as an act of hostility to the United States; the shares issued over and above the number proper under the charter, being issued to persons who pretended to have bought from the Confederate States the shares of Northern stockholders, sequestered on account of their adhesion to the government of the United States.

Neither of these certainly admit of confirmation; and the last not even if the Northern stockholders should themselves assent to it.

3. That the complainant applied to the company to disregard the claims of the "said pretended stockholders; to which they would willingly accede; but they affirm that these pretended stockholders have in their posession the certificates issued to them as aforesaid, and claim that they bind the company to admit the holders thereof." In other words, the company agrees with complainant, but cannot set aside its own acts, and claims that it is bound by the certificates it has issued to admit the new stockholders to all of their rights in the company.

Is this not substantially just what the Bank of Cleveland did in the case of Dodge vs. Woolsey?

There, the bank agreed with Woolsey, but on account of the "many obstacles in the way of testing the law in the courts of the State, cannot consent to take action," etc.—18 *How.*, 340.

Here, the company agrees with Perdicaries, but on account of the many obstacles (the outstanding stock-certificates) in its way, cannot reject the claims of these holders of "sequestered stock."

If in that case the conduct of the directors amounted to a breach of trust; does it not amount to the same in this case, intensified by their giving countenance to and joining in an act of hostility to the United States?

In *Dodge vs. Woolsey*, 18 *How.*, 345, the court says: "In our view, the refusal upon the part of the directors, by their own showing, partakes more of disregard of duty, than of an error of judgment. It was a non-performance of a confessed official obligation, amounting to what the law considers a breach of trust; though it may not involve intentional moral delinquency. It was a mistake, it is true, of what their duty required from them, according to their own sense of it; but, being a duty by their own confession, their refusal was an act outside of the obligation which the charter imposed upon them to protect, what they consientiously believed to be the franchises of the bank. A sense of duty and conduct contrary to it, is not 'an error of judgment merely', and cannot be so called in any case."

Does not this language apply in this case?

In reply to the demurrers, therefore, it is respectfully insisted:

1. That the refusal of the directors to bring this suit, was not in this case essential to the complainant's right to bring the suit, because he sought to check

   a. A violation of the charter.

   b. An act of hostility to the United States.

Neither of which could be legalized even by a unanimous vote of the company.

2. That the bill sufficiently shows that the complainant did apply to the company to act in the premises, and that they declined.

3. It is clear that the company has "omitted and neglected" to bring the suit; and this alone, under the rule laid down in *Russell vs. Wakefield*, *L. R.* 20 *Eq.*, 482, authorizes the stockholders to sue.

If it is permissible at this point to refer to evidence brought out by the defendants demurring, it might be noticed that in 1862, (when the spurious shares were issued,) and 1866, (when Perdicaries filed his bill,) the directors of the Gas Company were substantially the same.—*Trans. p. 57.*

The stock issued under the sequestration act of the Confederate States, (Confederate Stock,) is void on two grounds:

I. As being issued contrary to public policy, and the statute law of the United States.
II. As being issued contrary to the provisions of the charter of the company.—"*Ultra Vires.*"

Those holding this "Confederate Stock" must be divided into two classes, viz.:

1st. Those who bought at the sale made by the Confederate States receiver—buyers at first-hand.
2d. Those who subsequently bought from such purchasers—buyers at second-hand.

I. Public Policy and Statute Law.

I. The 14th Amendment forbids the United States or any State from assuming or paying "any debt or *obligation* incurred in aid of insurrection or rebellion, against the United States; * * but all such debts, *obligations and claims*, shall be held *illegal and void.*"—15 *Stat.*, 706.

There can be no doubt that the sequestration act of the Confederate States, and all sales under it, (specially as the proceeds of sale were paid into the Confederate Treasury), were "in furtherance and support of the rebellion," and that all claims against the Gas Company and obligations (if any) imposed on it, arising out of such sales, are "obligations and claims, in aid of insurrection and rebellion," and hence "illegal and void." "It is impossible that they should receive the sanction of a court of the United States."—*Head vs. Tally, Law Times, U. S. Court's Rep.* 155. *Ch. J. Chase.*

Horn vs. Lockhart, 17 *Wall*, 580, (1873.)—An executor sold his testator's property and invested the proceeds ($7000) in Confederate bonds. The question was, did this discharge him?

Curia.—"It would seem that there could be but one answer to this question. The bonds of the Confederate States were issued for the avowed purpose of raising funds to prosecute the war then waged by them against the government of the United States. The investment was therefore a direct contribution to the resources of the Confederate government. It was an act giving aid and comfort to the enemies of the United States, and the invalidity of any transaction of that kind, from whatever source originating, ought not to be a debatable matter in the courts of the United States. No legislation of Alabama, no act of its convention, no judgment of its tribunals, and no decree of the Confederate government, could make such a transaction lawful."

It may be said: "the 14th amendment does not apply to persons, but only to the United States and to the States." It is true, that the *prohibition* is applied only to them in express terms; but the *declaration*, that the debts, obligations and claims, in aid of the rebellion, are illegal and void; is general and unrestricted. But even if this were so, the amendment shows the "public policy" of the government on the point, and that is sufficient in this case.

Kennett vs. Chambers, 14 *How., Taney, Ch. J.* General Chambers, of the Texan army, for the purpose of raising, arming, &c., volunteers for Texas, entered into an agreement with seven persons in Cincinnati. They furnished Chambers money ($12,500), and he agreed to sell to them his estate in Texas for $12,500, which he acknowledged he had received in their notes, payable in four, six and twelve months. Texas was then in "rebellion" against Mexico, with which the United States were at peace. Texas had declared her independence, but had not yet been recognized by the United States. Chambers refused to convey the estate, and the complainants—some, the original parties, and others, their ASSIGNEES—brought their bill to compel him to do so. He demurred to the bill. Demurrer sustained. At the date of this contract, says the court substantially, the policy of the government of the United States was not to acknowledge Texas, and (p. 48) "This being the attitude in which the government stood, and this its open and avowed policy, upon what grounds can the parties to such a contract come into a court of the United States and ask for its specific execution? It was made in direct opposition *to the policy of* the government, to which it was the duty of every citizen to conform." * * The subsequent acknowledgment and admission into the Union of Texas cannot "affect the question, (p. 51). The agreement being illegal and ABSOLUTELY VOID at the *time it was made, can derive no force or validity* from events which afterwards happened." It is argued that the contract was to be executed in Texas, and was valid by its laws. This does not aid the matter. No court of the United States will (p. 52) "support a contract, no matter where made or where to be executed, if that contract was in violation of their laws or *contravened the public policy* of the government."

Tool Co. vs. Morris. 2 *Wall.*, 45. Morris agreed for a consideration to get for the Tool Co. a contract from the Secretary of War (Cameron) to deliver certain arms; and did get it. The Tool Co. then refused to pay Morris, and he brought suit.

The Court—(Field.) This contract cannot be enforced. Contracts for supplies should be made only with those who will execute them faithfully, and at least expense to the government. No other consideration can lawfully enter therein. "*Such is the rule of public policy, and whatever tends to introduce any other elements into the transaction is against public policy.*" * * * The contracts of this kind are "*void as against public policy without reference to the question whether improper means are contemplated or used in their execution.* The law looks to the general tendency of such agreements, and will not enforce them."

Battle vs. Coleman, 4 Pet., 184.
Marshall vs. Baltimore & O. R. Co., 16 How, 330.
Harris vs. Runnels, 12 How., 79.
Davidson vs. Lanier, 4 Wall., 554.
5 Robinson's Practice, 388, 407, ss.
Hanauer vs. Doane, 12 Wall., 345.

The cases decided since the close of the war, on questions growing out of it, sustain these views. They estabtablish that all acts which were "in furtherance and support of the rebellion," or were "hostile to the rightful government of the United States of America," or which were "intended to defeat the just rights of the citizens" of the United States: are, both as opposed to the public policy and to the law of the land, absolutely illegal and void.

Shortridge vs. Mason, 2 *Am. Law Rev.*, 95, *Ch. J. Chase.*—"Those who engage in rebellion must expect the consequences. If they succeed, rebellion becomes revolution, and the new government will justify its founders. If they fail, all those acts hostile to the rightful government, are violations of law, and ORIGINATE NO RIGHTS WHICH CAN BE RECOGNIZED BY THE NATION WHOSE AUTHORITY AND EXISTENCE HAVE ALIKE BEEN ASSAILED."

Texas vs. White, 7 *Wall.*, 733, *Ch. J. Chase.*—In this case the bonds, payable to bearer, were taken after

they fell due, by *bona fide* purchasers (Northerners) after the war, from one who had received them from the military board of Texas during the war, for the purchase of medicines and cards. The military board was organized to provide for the *defence* of the State. The Court says: "The *defence* contemplated * was to be made against the United States. * * It is not necessary to attempt any exact definitions within which the acts of such a State government (*i. e.* one 'established in hostility to the constitution of the United States,') must be treated as valid or invalid. It may be said, perhaps, with sufficient accuracy that acts necessary to peace and good order among citizens * * (examples given) * * must be regarded in general as valid when proceeding from an actual, though unlawful government; *and that acts in furtherance or support of rebellion against the United States, or intended to defeat the just rights of citizens, and other acts of like nature, must, in general, be regarded as invalid and void.*"

Hanauer vs. Doane, 12 *Wall.*, 345.—*Curia.*—"We have already decided in *Texas vs. White* that a contract made in aid of the late rebellion, or in furtherance and support thereof, is void, * * and (this) must be regarded as the settled law of the land. Any contract tinctured with the vice of giving aid and support to the rebellion can receive no countenance or sanction from the courts of the country. Are the notes in suit of this kind? A portion of their consideration was stores and supplies furnished to the army contractor of the Confederate government, and another was due bills issued for the same consideration. * * If either of these portions of the consideration on which the notes were given were illegal, the notes are void in toto. * * * If the due bills were invalid in the hands of the original owners, they were invalid in the hands of Hunter & Oakes," they knowing about the whole transaction.

To the same effect is *Thomas vs. City of Richmond*, *Ib.*, 357, where notes, payable to bearer and which had passed probably through numberless hands, were held void.

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Knox vs. Lee, Ib. 457.—Mrs. Lee, a resident of Pennsylvania, owned a flock of sheep in Texas. In March, 1863, the Confederate authorities sequestered the sheep as property of an "alien enemy." Knox bought them for $10.87½ each, in "Confederate money." Mrs. Lee sued Knox for $15,000 damages. The jury gave $7368, the court charging that the sale by the Confederate authorities was void. This was sustained, p. 554.

Hanauer vs. Woodruff, 15 *Wall.*, 439.—Hanauer held certain bonds issued by the seceding convention of Arkansas. He sold them to Woodruff, the latter giving his note for $3099 at 12 months.

Curia.—"The consideration was illegal and void." * * The attempt is made to sustain the note that it is "a contract collateral to that upon which the bonds were issued, and therefore not tinctured by it." * *

"The contract expressed by the note is indeed collateral to that upon which the bonds were issued. That is to say: it is not the same, but a different contract; yet it is *connected with that contract* by the fact that the bonds constitute its consideration; it *therefore gives value and currency to those bonds*, and to that extent advances the purposes for which the bonds were issued. *It thus draws to itself the illegality of the original transaction.*

"When a contract is thus connected by its consideration with an illegal transaction, a court of justice will not aid in its enforcement. It is sometimes said that the test whether a demand connected with an illegal transaction is capable of being enforced at law, is, whether the plaintiff requires any aid from an illegal transaction to establish his case. * * But it is too narrow in its terms, and excludes many cases where the plaintiff might establish his case independently of the illegal transaction, and yet would find his demand tainted by that transaction."

Cornett vs. Williams, 20 *Wall.*, 227.—Cornett, a resident of Missouri, moved his slaves to Texas when the Federal army approached his residence, for fear of losing them, (p. 229), and sold them to Williams. Williams owned a cloth factory, and made cloth for the Confederate government. Williams bought the slaves in order to

enable him to fulfil his contract with the Confederate government (p. 230.) To secure payment for the credit portion of the purchase money of the negroes, Williams made a trust deed of certain lands.

The court below charged the jury:

"With regard to the trust deed, I instruct you that if you believe that Cornett brought the slaves from Missouri, during the war, for the purpose of disposing of the same, being a citizen of Missouri, that it was an unlawful act on his part, contrary to his duty as a citizen of the United States and of Missouri, and that his sale of the negroes here (Texas) was a transaction void in law and cannot be enforced in the courts: and if the consideration of the trust was illegal and void, the deed itself was void," (p. 236.)

The Supreme Court declared that the charge was "correct," (p. 244.)

Sprott vs. U. S., 20 *Wall.*, 463.—Sprott bought cotton from the Confederate States. The cotton was captured and sold. He claimed the sale-moneys from the treasury. The court rejected the claim, and held that it made no difference that, in buying the cotton, he had no intention or purpose to aid the Confederacy; but only to make money. That the intent did not affect the matter; but the result that the contract aided the Confederacy made it void.

II. Ultra Vires.

This "Confederate stock," is furthermore void, as being issued contrary to the provisions of the charter of the company.

The provision in the charter for an increase of stock in this company is found *Supra, p.* 2.

By it, the stock of the company could in 1862, and can now be increased, only by a majority of the stockholders at a general meeting, or of the board of directors under their authority; and then such increase must be divided rateably among—at least offered to—the stockholders, according to the number of their shares at the date of such increase.

Not one of these provisions of the charter was complied with, in this so-called increase of stock. It is, therefore, "*ultra vires*," and absolutely null and void.

"A corporation," says Chief Justice Marshall, "being the mere creature of the law, possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence."

Dartmouth College vs. Woodward, 4 Wheat., 636.
Beaty vs. Knowler, 4 Pet., 152.
Bank vs. Earle, 13 Pet., 587, 588.
McMullen vs. City Council, 1 Bay., 46.
Angell & Ames, Corporations, § 86.

Pearce vs. Madison R. R. Co. & Peru R. R. Co., 21 *How.*, 442.—The defendants were separate corporations, created by the laws of Indiana to construct distinct lines of railway that connected at Indianapolis. They were consolidated by agreement, and, while thus consolidated, bought a steamer to run on the Ohio River in connexion with the roads. Notes were given in part payment, but were not paid at maturity. The roads were then dissevered, and an ENDORSEE of these notes brought suit upon them against both companies.

Curia.—"The rights, duties and obligations of the defendants are defined in the acts * * under which they were organized; and reference must be had to these to ascertain the validity of their contracts. They empower the defendants respectively, to do all that was necessary to construct and put in operation a railroad between the cities named in the acts of incorporation. There was no authority of law to consolidate these corporations, and to place both under the same management, or to subject the capital of the one to answer for the liabilities of the other.

* * But in addition to that act of illegality, the managers of these corporations established a steamboat line to run in connexion with the railroads, and thereby diverted their capital from the objects contemplated by their charters, and exposed it to perils, for which they afforded no sanction. Now, *persons dealing with the managers of a corporation, must take notice of the limitations imposed upon their authority by the act of incorporation.* Their powers are conceded in consideration of the advantage the public is to receive from their discreet and intelligent employment, and the public have an interest that neither the managers nor stockholders of the corporation, shall transcend their authority."

The court then cites approvingly and at length

McGregor vs. Deal & Dover R. Co., 16 L. & Eq., 189, 18 Q. B., 618.
Coleman vs. Eastern R. Co., 10 Beav. 1.
East Ang. R. Co. vs. East Counties R. Co., 11 C. B., 803.
Head vs. Ins. Co., 2 Cr., 127
Bank Augusta vs. Earle, 13 Pet., 519.
Perrine vs. Ches. & Ohio R. Co., 9 How., 172.

And continues: "It is contended, that because the steamboat was delivered to the defendants, and has been been converted to their use, they are responsible. It is enough to say, in reply to this, that the plaintiff was not the owner of the boat, nor does he claim under an assignment of the owner's interest. His suit is instituted on the notes, AS AN ENDORSEE; and the only question is, had the corporation the capacity to make the contract, in the fulfilment of which they were executed? The opinion of the court is, that it was a departure from the business of the corporation, and that their officers exceeded their authority."

Utica Ins. Co. vs. Scott, 19 *Johns.*, 1.—Notes issued by a bank contrary to, or not in accordance with its charter, are "absolutely void into whatever hands they may pass."

Citing: Utica Ins. Co. vs. Bloodgood, 4 Wend., 652.
" " Caldwell, 3 " 296.
North River Ins. Co. vs. Lawrence, 3 Wend., 482.
Beach vs. Fulton Bk., 3 " 573.
Utica Ins. Co., vs. Hunt, 1 " 56.
" Kip., 8 Cowen, 20.
New York Fire Ins. Co. vs. Sturges, 2 " 640.

The English authorities are ample and conclusive on the point. Besides those mentioned by the Supreme Court in *Pearce vs. Madison R. Co.*, we cite the cases of

Shrewsbury vs. Railway Co., L. R., 1 Eq., 595-620.
In re National Building Society, L. R., 5 Ch., 309.

The rule applies to the issue of stock not allowed by the charter.

"Acts not done in the manner prescribed by the charter, are mere nullities and absolutely void."

McSpeedon vs. Mayor of New York, 7 Bosw., 601.

"If the president of a corporation issue certificates of stock without authority, and without consideration, the company is not bound."

Holbrook vs. Fauquier and Alexandria Co., 2 Cr., C. C., 425.
Quoted from Brightley's Fed. Dig., 185, § 66.

Sewell's Case, L. R., 3 Ch., 136.—The directors in this case innocently and without fraud, made an over-issue of stock to the amount of £100,000.

The master of the Rolls, (Lord Romilly), held this over-issue void as *ultra vires.*

On appeal, Lord Cairns says:

"I now come to the question of what is called the unauthorized issue, (then stating that the company was established with a capital of £300,000, and that the directors had taken upon themselves to issue over and above these shares, scrip for 1000 shares of £100 each, and adds:) IN POINT OF LAW THAT, OF COURSE, WAS INVALID," *p.* 138.

Marsh vs. Fulton, 10 Wall., 683, Infra, p.

Crampton vs. Varna, R. Co., Law Rep. 7 Ch., p. 562.—A company was formed in 1863 under certain statutes which, *inter alia*, provided "That all contracts and agreements purporting to be made by company, involving sums of more than £500, should have the common seal affixed thereto," &c. The agent of the company made a contract involving £5000. The contract was confirmed by the board of directors, but no seal attached. The company had full benefit of the contract and made several

payments on account. Then refused payment. On suit brought, held that complainant could not recover. *Lord Ch. Hatherly:* "The truth is that every one who deals with corporations like these, must be taken to know what are their powers of contracting, and must take a contract accordingly."

Thomas vs. Richmond, 12 *Wall*, 352.—"In case of municipal and other public corporations, another consideration intervenes. * * Persons dealing with such officers and agents are chargeable with notice of the powers, which the corporation possesses, and are to be held responsible accordingly. The issuing of bills as a currency, being *ultra vires*, is an abuse of the public franchises, which have been conferred upon it, and the receiver of the bills being chargeable with notice of the wrong, is in *pari delicto* with the officers, and should have no remedy even for money had and received against the corporation, upon which he had aided in inflicting the wrong.

Police Jury vs. Britton, 15 Wall., 566.

III.—Buyers at Second-Hand.

The question now arises: whether this "Confederate stock," absolutely illegal and void in its issue, became valid by its assignment and transfer to a subsequent purchaser?

In other words: can the public policy of the government be defeated and evaded by the device of placing the stock in the hands of another party?

And here we must recall the position, in which all the parties to the transactions (Gas Company, buyers at first-

hand, buyers at second-hand, Confederate States receiver, &c.,) stood.

They were all sinners together, Confederates, rebels, or any thing else which it may suit the individual taste to designate them.

The talk of the loyalty of Thayer, or Dewing, or Carrington, is simply idle.

Mrs. Alexander's Cotton, 2 *Wallace*, 403.—Mrs. Alexander, (*p.* 414), was a widow; sixty-five years old; resided on her plantation, in the Confederate lines; took no part in the war, and took the oath of allegiance at the earliest practicable date. Her "loyalty" seems to have been established.

Curia—Ch. J. Chase, (*p.* 419.)—"It is said, that though remaining in rebel territory, Mrs. Alexander has no personal sympathy with the rebel cause, and that her property, therefore, cannot be regarded as enemy property; but this court cannot inquire into personal character and dispositions of individual inhabitants of enemy territory. We must be governed by the principle of public law, so often announced from this bench as applicable alike to civil and international wars, that all the people of each State or district in insurrection against the United States, must be regarded as enemies, until by the action of the legislature and the executive, or otherwise, that relation is thoroughly and permanently changed."

Miller vs. United States, 11 *Wall.*, 305, 306.—"The confiscation is not because of crime, but because of the relation of the property with opposing belligerent, a relation in which it has been brought in consequence of its ownership. It is immaterial whether the owner be an *alien* or *a friend*, or *even a citizen or subject of the power that attempts to appropriate* the property. (*The Venus*, 8 *Cranch*, 253.) In either case the property may be liable to confiscation under the rules of war. It is certainly enough to warrant the exercise of the belligerent right that the owner be a *resident* of the enemy's country, no matter what his nationality. * * Still less is it true that

the laws of nations have defined who, in the case of civil war, are to be regarded and may be treated as enemies; *clearly*, however, those *must be considered such* who, though residents or citizens of the lawful government, are residents of the territory under the power or control of the party resisting the government." *P.* 311, 312.

Cf. U. S. vs. Grossmayer, 9 *Wall.*, 72.—Where cotton of Grossmayer, a citizen of New York, and thoroughly loyal, was taken and sold under the act as to captured and abandoned property, and the proceeds were not returned to him.

The decree of the Confederate Court was, therefore, *as to them*—

1. Either valid as coming in the class of cases established by

Texas vs. White, 7 Wall., 732.
Thorington vs. Smith, 8 Wall., 11.

2. Or absolutely invalid, according to the doctrine laid down in

Hickman vs. Jones, 9 *Wall.*, 200, 201.—"The rebellion, out of which the war grew, was without any legal sanction. In the eye of the law it has the same properties as if it had been the insurrection of a county or smaller municipal territory, against the State to which it belonged. The proportion and duration of the struggle did not affect its character. Nor was there a rebel government *de facto* in such a sense as to give any legal efficacy to its acts. It was not recognized by the national, nor by any foreign government. It was not at any time in possession of the capital of the nation. It did not for a moment displace the rightful government. That government was always in existence, always in the regular discharge of its functions, and constantly exercising all its military power to put down the resistance to its authority in the insurrectionary States. * * Belligerent rights were conceded to the insurgents in arms. But the recognition did not

extend to the pretended government of the Confederacy. The intercourse was confined to its military authorities. In no instance was there intercourse otherwise than of this character. The rebellion was simply an armed resistance to the rightful authority of the sovereign. Such was its character in its rise, progress and downfall. The act of the Confederate Congress creating the tribunal in question was void. It was as if it were not. The court was a nullity, and could exercise no rightful jurisdiction."

Cf. U. S. vs. Hickley, 9 Wall., 86, 87.

3. Or the power of the Confederacy was such, that the company in obeying its orders, was on the principle laid down in *U. S. vs. Thomas*, 15 *Wall.*, 351, excusable, as acting under duress.

If valid, then the company, as acting in obedience to an authority to which it owed obedience; or if under the duress of a power which it could not resist; is clearly not responsible.

If invalid, then the president, and secretary, and treasurer of the company, in issuing this Confederate stock, did an absolutely wrong and void act; and the buyers at first-hand having full notice of this wrong, are, with them, *particepes criminis*, and the rule applies, *potior conditio possidentis*.

Battle vs. Coleman, 4 Pet., 184.

Now, can the assignees of those, thus without title, acquire a greater title than their grantors had; they having bought and obtained transfers during the supremacy of the Confederate government? That is, can the absolutely void be made valid by any subsequent event?

In the cases already cited, viz.:

Kennett vs. Chambers, 14 How., 38.
Texas vs. White, 7 Wall., 733.
Pearce vs. Madison, 21 How., 442
Thomas vs. City of Richmond, 12 Wall., 352.

The rights of *bona fide* buyers at second hand—innocent endorsees or assignees were involved—and yet the decisions were against them.

In *Craig vs. Missouri*, 2 *Pet.*, 436, Cf. J. Marshall, speaking of a note given in consideration of bills of credit, illegally issued—bills payable to bearer—says: "It has long been settled that a promise made in consideration of an act which is forbidden by law, is void. * * The consideration on which the note in this case is given, is against the highest law of the land, and the note itself is utterly *void*. Even a valuable consideration will not make good a contract in itself illegal."

In *Lowe vs. Walker*, 2 *Doug.*, 736, it is asked: "How can a thing void in its origin be rendered valid by anything done to it afterwards?" and Lord Mansfield evidently sanctioned the doctrine thus enunciated.

"A transaction originally unlawful, cannot be made any better by being ratified,"

United States vs. Grossmayer, 9 Wall., 75.

In this case, there is not commercial paper, but scrip which passes only by assignment; and yet these "Confederate stockholders" claim for it attributes not belonging to commercial paper, with all the favor shown to this paper.

The rule as to promissory notes is thus stated by the latest authority:

I Parsons, Prom. Notes, 212: "An illegal consideration is a void one, for the reason that the law cannot recognize a value in that which it forbids, nor enforce an obligation which it prohibits every one from assuming or discharging. This illegality may consist in

"1. (*p.* 213.) The violation of some positive statute. ***

"2. (*p.* 214.) The violation of laws of religion, morality or decency. * *

"3. (*p.* 214.) In an opposition to public policy—for this the law must always protect."

"The *bona fide* holder (*p.* 275) of negotiable paper before dishonor is not protected against those defences which go to the *essence* of the paper and either by *common law* or statute, annul and avoid the contract. Thus forgery, or where the note is materially altered. * * *And*

if the paper be illegal on any ground which makes it *null and void* as between the original parties, it is equally void in the hands of subsequent parties.

"A contract of sale (2 *Kent. Com.*, 466, *note E.*) not prohibited by any positive law, nor against good morals, may still be void as being against public policy."

Jones vs. Randall, Cow., 39.
Bryan vs. Lewis, R. & Moore, 386.

"The cases are uniform in declaring the principle that if a note or other contract be made in consideration of an act forbidden by law, it is absolutely void." Citing:

14 Mass., 322.
5 Johns., 327.
3 Wheat, 214.
11 East., 502.
Gallison, 560.
Cf. Collyer on Partnership, §§ 57, 58, 59, 60, 61.

Even promissory notes payable to bearer are *void*, if issued contrary to a law. Collyer *ut supra*, § 61.

Root vs. Godard, 3 McLean, 103.
Weed vs. Snow, 3 McLean, 265.
Hayden vs. Davis, 3 McLean, 278.
Root vs. Wallace, 4 McLean, 8.
Davis vs. Bank, 4 McLean, 387.

In *Wiggin vs, Bush*, 12 *Johns.*, 309, it was argued by plaintiff, that the defence of illegality does not avail against a *bona fide* holder.

Curia (p. 310). This note is void, *ab initio;* but it is contended that this is a defence set up against those persons who are subsequent holders for a valuable consideration and without notice. "This, according to the view before taken of the snbject, could not give validity to the note if void *ab initio.*"

Bowyer vs. Bampton, 2 *Strange*, 1155, (*A. D.* 1741). This case was that of a note given for money knowingly advanced for gaming purposes, and then endorsed to a *bona fide* holder. He brought suit.

Curia.—He cannot recover, "*for it is making it of some*

use to the lender, if he can pay his own debts with it, and *it will be a means to evade the act*, it being so very difficult to prove notice on an endorsee. And, though it will be some inconvenience to an innocent man, yet that will not be a balance to those on the other side. * * *It is but the common hazard of taking notes of infants or femes couvertes.*"

[Hold, this stock in the hands of "buyers at second-hand," to be valid; and it is "making it of some value" to the "buyers at first-hand."]

Ackland vs. Pearce, 2 *Camp.* 599, (*A. D.* 1811). A *bona fide* holder of a bill of exchange sought to recover on a draft tainted with usury.

Curia.—"The bill was drawn under a usurious agreement. The drawer's ignorance of this agreement is immaterial. If the bill of exchange must be valid because there was no notice of the usury to the holder, *this would be an easy recipe for evading the statutes of usury.*"

[As in this case, there would be an easy recipe to evade the result of hostility to the government.]

I Parson's Notes and Bills, 217. "If a note or bill be given for a consideration which is in part illegal, a new note for the same or in renewal of the first, is equally void."

"A party cannot recover on a new instrument which operates as a security for any usurious interest; although it is founded upon a new settlement of the account between the borrower and lender, and the original securities cancelled."

Preston vs. Jackson, 2 Stark, 287.
Chapman vs. Black, 2 B & Ald., 588.

"The circumstance of this note being in the hands of an endorser, ignorant of the original transaction, *makes no kind of difference;* for being void in its original creation for *illegallity* and *turpitude, it can never afterwards be valid so as to charge the drawer.* Some notes are void by the common law; others made so by statute. There is, however, no essential difference between them. They are in both cases equally void, and without any binding efficacy on the drawer."

Bell vs. Wood, 1 Bay., 251.
Bank U. S. vs. Owens, 2 Pet., 527.

Brown vs. Tarkington, 3 *Wall.*, 378. Brown sued Tarkington and others on four notes. Defendants were stockholders in the Tekama Bank, which had a charter from the Territory of Nebraska, but which was illegal, in so far as Congress had not approved the charter, as was required by the act of Congress. The notes were given to raise money to enable the president and stockholders of the bank "*to redeem the paper of the bank in circulation.*" Defence was that the consideration of the notes was illegal. The evidence tended to show that plaintiff had a good deal to do with the bank. He argued: conceding that the bills of the bank, as illegal, were not obligatory originally on these defendants, still that here the plaintiff had loaned money to enable these parties to pay debts; the payment of which, was not illegal, but commendable. Here, too, was a promise, not the *immediate* nor necessary offspring of the old acts, nor tainted by their infirmity, if they had any.

Curia. To the argument of counsel, (as above) "the answer is, that the new promise is founded on the illegal consideration, a debt or demand *growing out of the illegal transactions*, and is as infirm in the eye of the law as the implied promise which existed previous to the giving of the notes."

Bonds payable to *bearer*, were issued apparently under authority of a county. The interest thereon, was paid for several years; yet this was held invalid; and the holder, though *bona fide*, for value without notice, was held bound to look into the origin of title, etc.

Marsh vs. Fulton, 10 Wall., 683

But to leave no room for misapprehension, we repeat: that, in this case, we are not dealing with commercial paper, but only with scrip, "neither in form nor character negotiable," (*Bank vs. Lanier*, 11 *Wall.*, 377,) and which passes by assignment, and not by endorsement; and that the contracts growing out of these transactions, manifestly hostile to the United States, are void through all transfers; not only because they contravene positive

statute law, but also because they contravene the public policy.

The Ariadne, 2 Wheat., 143.
Patton vs. Nicholson, 3 Wheat., 204.
Griswold vs. Waddington, 16 Johns., 485.

And validity cannot be given to them at any stage of their existence without disregarding that statute law and defeating that public policy,

The only case where the question has been directly determined is:

The *Central Railroad Co. vs. Ward*, 37 *Geo., p.* 515. In this company there were eight hundred and seventy-eight shares which were "sequestered" by the Confederate States court, and sold by their receiver. Of these Octavus Cohen bought one hundred shares. Subsequently he sold fifty of these shares to Solomon Cohen, who again, nearly a year later, sold them to John E. Ward. Both S. Cohen and Ward were *bona fide* purchasers without notice.

The stock being held void, the question arose whether the company was responsible to Ward in damages. Warner, C. J., says: "In regard to the other question made in this case, whether the Central Railroad and Banking Company are to be held liable as guarantors, or warrantors of the title to this stock, simply because the company allowed the transfer of the stock to be made upon their books, under the facts and circumstances presented by the record; it is the unanimous opinion of the court that the company are not so liable. By the 9th section of the charter of the company, certificates of stock therein are transferred on the books of the company only by personal entry of the stockholder, his or her legal representative. The stock is not purchased of the company, but of the party who represents himself to be the owner of it; who, when the terms of sale are consummated, directs the transfer be made by his personal entry, or that of his legal representative, on the books of the company, to his vendee. In the absence of any fraud or collusion, on the part of the company, the mere transfer of the stock on

the books thereof by the direction of the vendor to his vendee, does not make the company liable as a guarantor or warrantor of the vendor's title to the stock. If the vendor's title to the stock is not good, the vendee must look to him from whom he purchased the stock, and to whom he paid the consideration therefor. * * These certificates of stock are not such recognized currency as will protect the vendee thereof as a *bona fide* purchaser."

IV.—Objections.

It is contended by the holders of this "Confederate stock," that the company having issued its scrip to them, is estopped from denying their title to the shares, without regard to the origin of such title; and they cite in support of this contention,

Ashby vs. Blackwell, 2 Eden, 299, (1765.)
Davis vs. Bank of England, 2 Bing., 893, (1839.)
Coles vs. Bank of England, 10 Ad. & E., 469, (1839.)
Sloman vs. Bank of England, 14 Sim., 472, (1845.)
Tayler vs. G. I. Peninsula Ry. Co., DeG. & J., 559, (1859.)
Midland R. Co. vs. Taylor, 28 Beav., 287, (1860.) 8 H. L. C., 751, (1862.)
Swan vs. North British Australasian Co., 2 H. & C., 175., 7 Com. Bench, 400, 7 H. & N., 603.
Bahia & San Francisco R. Co., L. R., 3 Q. B., 584, (1860.)
Hart vs. Gold Mining Co., L. R., 5 Ex., 113, (1870.)
New York & New Haven Co. vs. Schuyler, 7 Tiffany, 30, (New York Appeals), (1865.)

It is a sufficient answer to these cases, that in not one of them is there a question of the statute law, or of public policy, or of the violation of the charter of the company.

The defence that the contract is void, as illegal and contrary to public policy, is not admitted on account of any favor to the defendant. As Lord Hardwicke ex-

presses it, all these defences "*depend* on public utility;" (*Hylton vs. Hylton*, 2 *Ves., Sr.*, 549;) and the contracts themselves are held void, not because the defendant is in any worse plight than the plaintiff, but because they have a "tendency to produce a public mischief;" (*Gilbert vs. Sykes*, 16 *East*, 156, Lord Ellenborough;) or are "contrary to * * sound policy; (*Wetherell vs Jones*, 3 *B. & A.*, 225, Lord Tenterden;) and because "private must give way to public convenience." (*Lowe vs. Walker*, 2 *Doug.* 736, Lord Mansfield.) See *Kennett vs. Chambers*, and other cases from the Supreme Court cited *supra, pp.* 31–32.

This, of itself, sufficiently distinguishes those cases from the present; but a close examination will show, further, that they all depend upon the fact that the companies, making such improper issue of scrip, were guilty of negligence.

The company is, it is said, obliged to fulfil its undertaking, and this is—not to warrant the title of the scrip—but only to use due diligence that no scrip is improperly issued.

"The *assignment* by the stockholder and the acceptance by the assignee, complete the transfer. The bank have no part in this transaction, and they are only to see that it is properly registered in their books. * * It is the duty of the bank to prevent the entry of a transfer until they are satisfied that the person who claims to be allowed to make it, is duly authorized to do so. They may take reasonable time to make enquiries and require proof," etc. Ch. J. Best.—*Davis vs. Bank of England*, 2 *Bingham*, 403, 404.

Thus they are responsible for scrip issued on a forged transfer; for it is their duty to know the handwriting of their stockholders—just as a bank is required to know the handwriting of its depositors; but no one would contend that they are responsible for scrip issued, for instance, by their officers, under duress. The cases cited, and they are the strongest which can be cited in favor of these claimants, decide no more than that companies are

responsible for negligence in the discharge of their duties. They receive no consideration for the transfer of the stock. That is paid to the transferrer, and he, in fact, does warrant the title; while the company guarantees only due care in the discharge of its duties.

In *Ashby vs. Blackwell*, (2 *Eden*, 299), there was gross negligence on the part of the company, and Lord Northington dwells specially on this fact. The stock was transferred upon a forged power of attorney, which was not witnessed, even according to the by-laws of the company.

"In the present case, (says the Lord Chancellor, *p.* 303,) the company * * (acted) with gross negligence. * * They must and ought to answer for their and their servant's negligence. And it will be of no public detriment if my decree tends to make the directors of public companies attend to the business of the companies, and * * not to leave (it) * to undirected clerks and book-keepers, with illiberal salaries, and who, therefore, dare not look a broker in the face."

In *Davis vs. Bank of England*, 2 *Bing.*, 293), which was also a case where stock was transferred upon a forged power of attorney, the court expressly says: "It is the bank, therefore, and not the stockholder who is to suffer, if, *for want of inquiring, and it does not appear that any inquiry was made in this case*, they are imposed upon, and allow a transfer to be entered on their books, made without authority."

See 5 *B. & C.*, 185, where this case was reversed in error, on the form of the action.

Coles vs. Bank of England, (10 *Ad. & E*, 446, *Lord C. J. Denman*).—Benjamin Coles, nephew of testatrix and one of her executors, was a clerk in the bank, and was in the habit of accompanying the testatrix when she received her dividends. "He must have paid her the full amount of dividend that would have been due, if the original amount had continued in her name; but he had, in fact, in the interval, taken another woman to the bank, who personated the testatrix from time to time, and as

often forged the name of the testatrix to several transfers of the stock. * * The argument was that the testatrix, by her gross negligence, greatly contributed to produce the loss which has accrued. * * The proof of this was * * (that) though she was herself defrauded, and did not know of the diminution of her stock, yet had the means of knowing it, and was guilty of gross negligence in receiving the dividends on the reduced sums without objection. * * * * * * *

"The same doctrine (viz.: 'that parties guilty of negligence, which alters the rights of others, may be bound by it') is laid down * * in *Davis vs. Bank of England.* * * If it had appeared that through the fault of Davis the bank had paid away his dividends, he would not have been entitled to recover. Now, in this case, the jury have in effect found that the testatrix's gross negligence led the bank to believe those transfers duly made. * * Any culpable conduct on the part of testatrix, by which the relation of the parties to the property is changed, would deprive her of the right to have her name replaced on the list of stockholders." So held.

Sloman vs. Bank of England, (14 Sim., 488 & 490,) and *Midland R. C. vs. Taylor*, (8 *H. L. C.*, 751,) were cases of transfer on forged signatures; where the complainants were held free from *lachesse* and the companies negligent. *In Midland R. C., vs. Taylor*, the argument turned chiefly on the effect of 7 and 8 *Vict., c.* 18, § 30, which relieves the company from the duty of looking into powers, &c., of trustees. The forgery here was by a partner of his partner's name. Note the case cited by Sir Hugh Cairns, in argument, 8 *Beavan*, 297.

"If there has been a loss, it has arisen from no fault of the company; the purchaser who brought the transfer for registration, and impliedly pledged himself for its regularity, is bound to make it good, and not the company."

Hare vs. London & Northwestern R. Co., 8 Wms. R., 352.

Swan vs. North British Australasian Co., (2 *H. & C.*, 175.)—The facts of the case were: (*p.* 177) "*Intending* to *sell* and *transfer* certain shares in *another company*,

(Scottish Australian Investment Company), he (Swan) was induced by the representation of his broker, to execute a blank transfer for the purpose of enabling the broker to fill in the numbers and descriptions of the shares in that company, and the names of the vendee of those shares, in order that those shares might be transferred to such vendee; whereas, the broker fraudulently filled in the numbers and descriptions of the shares in question, which the plaintiff *did not intend to sell or transfer*, and by a feloneous theft of the certificates of such last-mentioned shares, complied with the requisition of the company, and induced them to register such deed as a genuine transfer." (2 *H. & C.*, 176.)

The box containing the scrip for the Australasian stock was deposited by this broker in a bank on account of Swan; but Swan declared that, to the best of his belief, he locked the box and kept the key. The broker certainly had access to it. (7 *C. B.*, 401.)

This case was elaborately argued in 1859 before the Common Pleas, where the court being equally divided, (Erle, C. J., and Keating, J., holding that Swan had precluded himself by his negligence from relief; and Willes, J., and Byles, J., holding the reverse), the rule on the company to show cause why the shares should not be restored, was discharged.

7 Com. Bench, 400, 448.

The plaintiff then obtained a similar rule in the Court of Exchequer, and again (1862) there was a divided court. Martin and Channell, BB., held that the transfers were void, and that Swan had not committed such negligence as to estop him from maintaining his rights in the premises; and that the doctrine of estoppel, by executing instruments in blank, is confined to negotiable instruments. Pollock, C. B., and Wilde, B., held the reverse. The court being thus equally divided, the junior baron, according to the practice of this court withdrew, and judgment was entered for the plaintiff.

7 Hurlstone and Norman, 603, 661.

The case was then carried on appeal, to the Exchequer

Chamber, where, still with some dissent, the judgment of the Court of Exchequer was affirmed in both respects, viz.: that the doctrine of estoppel, by executing instruments in blank, is confined to negotiable instruments, while scrip was not such; and that the plaintiff had not, in this particular case, committed such negligence as to deprive him of his shares. "*Negligence*," says C, J. Cockburn, one of the majority, (*p.* 190), "does not appear to me to have been *sufficiently established in this case.* * * Here the transfer deeds delivered in blank by the plaintiff were intended to have effect on shares, not in this, but in another company; and * * but for the occurrence of a very extraordinary event, namely, the forgery *and the felony* of the plaintiff's agent, the act of the plaintiff could not have had any effect on the shares now in question."

2 Hurlstone and Coltman, 175, 192.

Tayler vs. Great Indian P. Ry. Co., 4 *DeG. and Jones*, *p.* 559, *A. D.*, 1859.—Stock transferred on powers executed in blank, and delivered in blank to buyer, without any fraud on the part of the buyer; but through the fraud of the vendor's broker, the powers were filled up with shares different from those the vendor had authorized the sale of. Held that the *powers being in blank*, the buyer was sufficiently put on enquiry, and that the vendor was entitled to his shares. The company had not yet transferred them, and so lost nothing. *Cf. Hunter vs. Walters, Law Rep., XI. Eq. Ca., p.* 319, for remarks on this case, and on *Swan vs. North, etc., Co. Supra pp.* 51, 52.

These cases, it will be seen, apply only to stockholders, whose shares have been transferred by forgery to others. None of them decides that the stock acquired by such forgery is valid, and, consequently, have no application to the holders of this "Confederate stock."

They do fix, in the first place, that the "loyal stockholders," whose names were, under the proceedings of the Confederate court, erased from the list of stockholders, were entitled to be held and were really always stockholders, just as if no such proceedings were ever had.

But they do not help those who claim, by virtue of proceedings "hostile to the United States," the property of these "loyal citizens."

They fix, secondly, that the ground upon which the companies are held, in such cases, responsible to the original stockholders, is their negligence—their neglect to use proper precautions to prevent the loss occasioned by such forgery or wrongful act.

And, lastly, they fix equally clearly that such original stockholder must not by negligence, or other wrongful act contribute to such loss.

Were not these "buyers at second-hand" entirely negligent themselves? As stockholders, they had the absolute right to examine the books of the company, and trace this stock back to its real source—the decree of the Confederate Court.

There are, however, cases which relate to those who buy the stock sold under a forged power.

Hidyard vs. So. Sea. Co. & Keate, 2 *P. Wms.*, 76.—Hidyard's stock in this company was transferred to Keate upon a forged power of attorney, and certain dividends on it were paid to Keate. Hidyard brought his bill to have his stock transferred back to him, and to get payment of the dividends wrongfully paid to Keate.

Keate objected, that he was a "fair and innocent purchaser;" that equity should not lend any assistance in the matter against him; that this would be a case of extreme hardship, especially as the company had transferred the stock to him; and, yet greater hardship, that he should refund the dividends received.

"*Sed Curia*, when the defendant Keate, bought by letter of attorney, it was incumbent on him, and at his peril, to see that such letter of attorney was a true one. * * The rule of *caveat emptor* is, in this case, properly applicable to him. * * The company were but instruments and conduit pipes. * * Let the company take this stock from the defendant and restore it to the plaintiff. * *; and let the defendant, Keate, and not the company, pay back the dividends, * * and let the defendant * *

who has been in default * * pay both to the company and the plaintiff their costs."

This case may go beyond modern ideas, but so far as it relates to buyers at first-hand, under a forged transfer, it has been approved in the only case of modern times where the whole matter seems to have been fully discussed and considered, viz.: in the case next cited.

In re, Bahia and San Francisco R. Co., (*L. R.*, 3, *Q. B.*, 584.)—Trittin held five shares in this company. Her signature having been forged by her broker, these shares were transferred to Stocken, who again transferred to Burton. Both Stocken and Burton were *bona fide* purchasers for value without notice. Trittin's shares having been restored to her, and Burton's name erased from the list of stockholders, he brought suit to recover either the shares or their value, and rested his case chiefly upon the negligence of the company, in making the forged transfer to Stocken, and thus deceiving him (Burton) into the belief that Stocken had a good title, and inducing him to purchase the shares, and relied on the cases of *Freeman vs. Cooke*, and *Pickard vs. Sears.*

The counsel for the company cited *Hidyard vs. So. Sea Company & Keate*, (*supra p.* 54,) when Blackburn, J., remarked: "That was a case between the company, the purchaser under a forged letter of attorney, and the true owner—the rights of sub-purchasers had not to be considered."

The court held that the company, in this particular case, had not performed its duty.

"The company (p. 592, says Blackburn, J.) are bound by the statute to keep a correct register. * * The company, by granting the certificate, do make a statement that they have transferred the shares specified to the person to whom it is given, and that he is the holder of the shares. If they have been deceived, and the statement is not perfectly true, they may not be guilty of negligence, *but the company, and no one else, have power to inquire into the matter.*" "The case," says Ch. J. Cockburn, "falls within the principle of *Pickard vs.*

Sears, and *Freeman vs. Cook*," and all the judges concur in this.

Hart vs. Gold Mining Co., (*L. R.* 5 *Ex.* 111,) is similar to the above, and simply follows it.

In both cases, the decision is based upon the principle of *Pickard vs. Sears*, and *Freeman vs. Cook*. What is this principle?

Pickard vs. Sears, 6 *Ad. & E.*, 469. In an action of trover, it appeared that certain goods of the plaintiff, were seized under execution against a third party and sold to defendant. The plaintiff, after he knew of this seizure, and of the intention to sell, consulted with the execution creditor as to the disposal of the goods, without mentioning his own title. The court held that the jury might infer from this an authority from the plaintiff to sell, and hence, as this point had been excluded from its consideration, a new trial was granted.

"The rule of law," says Lord Denman, C. J., "is clear, that where one by his words or conduct WILFULLY causes another to believe the existence of a certain state of things, and induces him to act on that belief, so as to alter his own previous position, the former is concluded from averring against the latter a different state of things as existing at the same time."

Freeman vs. Cook, 2 *Ex.*, 663. Baron Parke, delivering the opinion of the court, quotes the above rule, and adds: "That (this rule) was founded on previous authorities, (citing them,) and has been acted upon in some cases since. The principle is stated more broadly in *Gregg vs. Wells*, 9 *A. & E.*, 97, where his Lordship says that a party, who NEGLIGENTLY or CULPABLY stands by and allows another to contract on the faith of a fact which he can contradict, cannot afterwards dispute that fact, in an action against the person whom he has himself assisted in deceiving. * * The rule as (thus) laid down, must be considered as established. By the term 'WILFULLY' in that rule, we must understand, if not that the party represents that to be true which he knows to be untrue, at least that he MEANS his repre-

sentation to be acted upon, and that it is acted upon accordingly." Or,

As Cockburn, C. J. expresses it, in the case of *Bahia &c. Co.:* "If you make a representation with the INTENTION that it shall be acted upon by another, and he does so; you are estopped from denying the truth of what you represent to be the fact."

So even conceding that these Confederate sales and all transfers, were not, as we have shown them to be, absolutely "*illegal and void*," and incapable of being "*made any better*" by ratification, as being a violation, not only of the statute law and public policy of the government, but also of the company's charter; still the company could not, under the above authorities, be held responsible unless it had "WILFULLY, NEGLIGENTLY, CULPABLY, AND INTENTIONALLY" deceived these purchasers at second-hand.

But how can any *will, negligence, fault, or intention,* be attributed to one acting under duress?

Robinson, (5 Practice, 404,) quoting *Coke's* 2 *Inst.*, 483, under the head of *Duress*, says: Lord Coke "lays down that a man shall avoid his deed for *manuas* of imprisonment, albeit he never were imprisoned; for a man shall avoid his own act for *manuas* in four cases, viz: for fear * * 4, of imprisonment." And again in *Coke Lit.*, 253 *b.*, "feare of corporall hurte" is said to be sufficient to avoid a deed; "*et nemo tenetur se infortuniis et periculis exponere.*"

Now, if the company had refused to obey the mandate of the Confederate Court, its officers would not only have been attached for contempt, and imprisoned until they obeyed the mandate; but would also have exposed themselves to a fine of $5000, and imprisonment for six months, and to the payment of double the value of the sequestered shares—in this instance, $188,300. There was

no power here to protect them from this "government of paramount force." And, according to the Supreme Court of the United States, while this "supremacy did not justify acts of hostility to the United States, * * (still) IT MADE OBEDIENCE TO ITS AUTHORITY IN CIVIL AND LOCAL MATTERS, NOT ONLY A NECESSITY BUT A DUTY;" and in this case, as said previously, all concerned were, in the eye of the law, "sinners together."

"But there is another description of government, (says C. J. Chase, in *Thorington vs. Smith*, 8 *Wall.*, 9), called also by publicists a government *de facto*, but which might, perhaps, be more aptly denominated a government of paramount force. Its distinguishing characteristics are (1) that its existence is maintained by active military power, within the territories, and against the rightful authorities of an established and lawful government; and (2), that while it exists, it must necessarily be obeyed in civil matters by private citizens who, by acts of obedience, rendered in submission to such force, do not become responsible, as wrong-doers, for those acts, though not warranted by the laws of the rightful government. Actual governments of this sort are established over districts differing greatly in extent and conditions. They are usually administered directly by military authority, but they may be administered, also, by civil authority, supported more or less directly by military force.

"One example of this sort of government is found in the case of Castine, in Maine, reduced to British possession during the war of 1812. From the 1st of September, 1814, to the ratification of the treaty of peace in 1815, according to the judgement of this court in *United States vs. Rice*, 4 *Wheaton*, 253, 'the British government exercised all civil and military authority over the place.' 'The authority of the United States over the territory was suspended, and the laws of the United States could no longer be enforced there, or be obligatory on the inhabitants who remained and submitted to the conqueror. By the surrender, the inhabitants passed under a temporary allegiance to the British government, and were bound by such laws, and such only, as it chose to recog-

nize and impose.' It is not to be inferred from this that the obligations of the people of Castine as citizens of the United States were abrogated. They were suspended merely by the presence, and only during the presence, of the paramount force. A like example is found in the case of Tampico, occupied during the war with Mexico by the troops of the United States. It was determined by this court, in *Fleming vs. Page*, 9 *How.*, 614, that, although Tampico did not become a port of the United States in consequence of that occupation; still, having come, together with the whole State of Tamaulipas, of which it was part, into the exclusive possession of the National forces, it must be regarded and respected by other nations as the territory of the United States. These were cases of temporary possession of territory by lawful and regular governments at war with the country of which the territory so possessed was part.

"The central government established by the insurgent States differed from the temporary governments at Castine and Tampico in the circumstance, that its authority did not originate in lawful acts of regular war, but it was not, on that account, less actual or less supreme. And we think that it must be classed among the governments, of which these are examples. It is to be observed that the rights and obligations of a belligerent were conceded to it, in its military character, very soon after the war began, from motives of humanity and expediency by the United States. The whole territory controlled by it was thereafter held to be enemies' territory, and the inhabitants of that territory were held, in most respects, for enemies. To the extent, then, of actual supremacy, however unlawfully gained, in all matters of government within its military lines, the power of the insurgent government cannot be questioned. That supremacy did not justify acts of hostility to the United States. How far it should excuse them must be left to the lawful government upon the re-establishment of its authority. *But it made obedience to its authority, in civil and local matters, not only a necessity but a duty. Without such obedience, civil order was impossible.*"

The Supreme Court of the United States has really decided the case as to the responsibility of the company, in the case of *U. S. vs. Thomas*, 15 *Wall., pp.* 338, 339, 341, 351, 352, 355, when it decides that a United States collector of customs is not responsible on his official bond for moneys he received, which he surrendered to the Confederate States officials, on their simple demand, "without the application of the slightest personal violence, or a moment's imprisonment, or any attempt to seize his person or property." And this despite of stringency of such official bonds.

N. Y. & N. H. R. Co. vs. Schuyler, 7 *Court of Appeals*, (*New York*), *Tiffany*, 30–91,—We consider this case separately, because so much stress has been placed on it by the holders of this "Confederate stock." Though there are in it many features which distinguish it from the cases cited, and also from the present, and render it of small application; it fixes no new principle.

Schuyler, the transfer agent and president of the company, issued a large amount of spurious stock. But he had authority to issue certificates just in the way he did; his power did not limit him to issuing certificates only in cases of transfer; he had authority to dispose of forfeited shares; to receive transfers of shares to himself on account of the company, and issue certificates therefor to purchasers. (*P.* 61.)

Moreover, he did not, in his issues, exceed the capital of the company; (*p.* 56:) and the company received the benefit of large sums raised by him in this way; (*p.* 58, 63;) and, finally, for seven years the company had time and again recognized this spurious stock.

Still the court rests its decision in this case on the negligence of the company. It dwells continually on this fact, designating it at times simply "negligence," at others "culpable negligence."

From 3d February, 1847, to 3d July, 1854, Schuyler was transfer agent of this company in New York, and had the sole management and control of this agency, (*pp.* 38, 54.)

During all this time the directors made no examination whatsoever of the books, while, as the court found specially, (*p.* 42), "a proper examination of the books would have enabled them to discover the frauds perpetrated by Schuyler, and the board of directors were guilty of negligence" —of "culpable negligence," *pp.* 57, 58, 59, 62, etc., etc.

It was a case of gross, palpable and actual fraud on the part of Schuyler; and of the equally gross negligence on the part of the company; and the only question was: who should suffer for this fraud—the innocent dupes of Schuyler? or those whose agent he was and who, by their negligence, enabled him to swindle in this wholesale manner?

The court held: That while the spurious stock was really void (*p.* 49) the corporation was liable, as any natural person would be, for the consequences of the wrongful acts of its agents while engaged in the business of the agency, and was responsible for every grade and description of *negligent tort*, and of the *fraud and deceit* of its agent done in his agency.

Furthermore, the corporation (*p.* 52) was bound to exercise such ordinary care and skill as should afford to dealers a safe and reliable mode of acquiring title to its shares in the form of transfers and certificates. "Where there is anything in the circumstances to create a duty to an individual or the public, any neglect to perform that duty, from which injury arises, is actionable."

To recapitulate briefly:

To the "buyers at first-hand," the company is clearly not liable. They are in no sense, whatsoever, *bona fide* purchasers without notice, but bought for Confederate money, and with fullest notice not only that these sales were made in hostility to the United States, but also that this pretended scrip was issued in violation of the charter.

To the "buyers at second-hand," the company is, also, not liable. The only ground (considerations of public policy being omitted) upon which it could be charged, is that wilfully and with culpable negligence, it held out to

these purchasers the representation that the scrip held by the "purchasers at first-hand," was valid and *bona fide* stock; and this ground totally fails, as to the officers of the company, acting under duress, in "feare of corporall hurte" and of "imprisonment," no will can be attributed.

But even conceding, for the sake of argument, that this were not so, and that the company and its officers were "rebels" of the deepest dye, and these "buyers at second-hand," Northerners of most immaculate "loyalty:" still the courts will never permit the company to recognize this scrip or pay its value. Self-preservation with States, as with individuals, is the first law of nature; and whatever assails this will be crushed relentlessly and without regard to individual hardship. If, by the simple device of passing this scrip to another, profit and gain may be made by hostility to the government; and that, by this "easy recipe," "value and currency" be given to it, (15 *Wall.*, 439), and the legitimate, and certainly not harsh, consequences of such hostility evaded; then government gives direct encouragement to "insurrection and rebellion," by furnishing the ready means of getting funds from its own "loyal" citizens to compass its own destruction. But if the government, without any regard to the parties—without caring or stopping to enquire who are innocent or who guilty—sternly refuses its aid in such cases, and declares all transactions originating in hostility to itself absolutely void; then "sequestration acts" will not supply the means of waging war against it. The language of C. J. Chase is not only that of the law, but also that of common sense: "Those who engage in rebellion must expect the consequences. If they succeed, rebellion becomes revolution, and the new government will justify its founders. If they fail, all those acts hostile to the rightful government, are violations of law, and ORIGINATE NO RIGHTS WHICH CAN BE RECOGNIZED BY THE NATION WHOSE AUTHORITY AND EXISTENCE HAVE ALIKE BEEN ASSAILED."

There is another view which may be taken of this case:

The acts of 17th July, 1862 (12 *Stat.*, 590), and of 3d March, 1863, (12 *Stat.*, 820), provided for the seizure and collection of all captured and abandoned property in the States designated by the President as in insurrection.

The proclamation of 1st July, 1862, (12 *Stat.*, 667) declared South Carolina to be "in insurrection and rebellion."

The right to make such captures is indisputable.

Miller vs. U. S., 11 Wall., 305, 307.
U. S. vs Anderson, 9 Wall., 64.
U. S. vs. Klein, 13 Wall., 129.
Carroll vs. U. S., 13 Wall., 151.
Oke Manning, Law of Nations, 135–137.
Wheaton, International Law, (Dana) § 347, n. 169.

The seizure and capture of the gas company was made 26th July, 1866.

The war closed 2d August, 1866.

U. S. vs. Anderson, 9 Wall., 71.
McKee vs. Rains, 10 Wall., 25.
14 Stat., 1866, Appendix III.

The government in restoring the company to its stockholders did not restore the "sequestered shares" to their holders. On the contrary, as a condition of the restoration, it declared and established these sequestered shares null and void.

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